



# REALIZING RIGHTS, CHANGING LIVES:

THE IMPACT OF THE UNITED  
NATIONS HUMAN RIGHTS  
SYSTEM ON THE ENJOYMENT  
OF CHILDREN'S RIGHTS

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# INTRODUCTION

The adoption of the Convention on the Rights of the Child in 1989 marked a crucial moment for the protection and promotion of children's rights. For the first time, children were recognized as individual rights-holders rather than dependents on the 'good will' of adults. Today, the Convention has received the highest number of ratifications of any of the core international human rights treaties.

Yet the promulgation and ratification of treaties is only the first step in ensuring that all children, everywhere, can fully enjoy their rights. While the international community has, over recent years, placed increased emphasis on the on-the-ground implementation by States of their international human rights obligations and commitments, an important gap remains between the words in the Convention and the lived reality of millions of children around the world. The primary responsibility for bridging that gap rests with States. To help move them towards greater compliance, the United Nations has established a range of monitoring mechanisms including, most importantly, the Treaty Bodies, the Special Procedures and the Universal Periodic Review (UPR). The mechanisms cover all human rights and population groups, including the rights of children. States are expected to cooperate with and report to these mechanisms, act on recommendations received and, over time, amend national laws, policies and practices in line with their obligations under the treaties.

This process of state reporting and implementation also provides an opportunity for relevant United Nations entities to help States implement their international human rights obligations and commitments, by feeding information about the domestic enjoyment of human rights into the above-mentioned monitoring mechanisms (e.g. via 'alternative reporting'), and then by working with governments and other national stakeholders to turn the resulting United Nations recommendations into improvements on the ground.

The present report represents a pioneering attempt to track the efforts of one United Nations entity, the United Nations Children's Fund (UNICEF), to seize this important opportunity. It seeks to follow UNICEF engagement with the full United Nations human rights 'reporting-implementation-reporting cycle', by focusing on the enjoyment of children's

rights across six country case studies. In particular, the report seeks to understand:

- The degree to which UNICEF offices are able to feed information about the domestic situation of children's rights into the three main United Nations human rights mechanisms.
- The degree to which that information influences the work of the Special Procedures, Treaty Bodies and UPR, and informs the recommendations generated by the mechanisms.
- The degree to which UNICEF is then able to work with the States concerned to support the implementation of key clusters of children's rights recommendations, thereby promoting the State's compliance with international human rights standards and – by extension – contributing to the achievement of the Sustainable Development Goals (SDGs).

The report breaks new ground in two important ways. First, it represents a first-ever attempt to track, in detail, the full United Nations human rights reporting-implementation-reporting cycle (albeit for a limited set of rights, and a small group of States) – from national to international and back to national – and covering all three United Nations monitoring mechanisms. By extension, it represents a first comprehensive attempt (i.e. covering all three main United Nations human rights mechanisms) to measure the on-the-ground delivery and impact of the international human rights system.

Second, it seeks to identify and share good practice on the part of United Nations entities for effective engagement with the reporting-implementation-reporting cycle of the United Nations human rights mechanisms, and to pinpoint the 'success factors' that appear to determine whether or not such engagement generates measurable improvements in the enjoyment of human rights.

The report comprises four parts. Chapter 1 presents an overview of the international human rights system, the role and functioning of the human rights mechanisms

(including the reporting-implementation-reporting cycle) and the contemporary global human rights 'implementation agenda'. Chapter 2 then focuses on children's rights, in particular by analysing the output of the mechanisms (i.e. recommendations). Chapter 3 then presents the six country case studies, to track and analyse the degree to which States are engaging/cooperating with the United Nations human rights mechanisms (i.e. the reporting-implementation-reporting cycle) to better promote and protect the rights set down in the Convention on the Rights of the Child; and the degree to which UNICEF offices are engaging with and leveraging the mechanisms to support state progress in this field. Lastly, Chapter 4 offers some concluding thoughts on key lessons learned, good practices and success factors identified from the six country case studies.

A young girl brings her younger sister for a malnutrition screening at the Mama Mwilu Health Centre in Kananga, Kasai-Occidental province, Democratic Republic of Congo. © UNICEF/UN0271210/Tremeau

# CHAPTER 1.

## THE GLOBAL HUMAN RIGHTS IMPLEMENTATION AGENDA

The international community has invested enormous time and energy in building the international human rights system over the past 70 years. Today it comprises, *inter alia*, the Universal Declaration of Human Rights, nine core human rights instruments (international treaties) and various international human rights mechanisms – namely, Treaty Bodies, Special Procedures and the UPR. These mechanisms are designed to oversee States’ compliance with their international legal obligations, hold duty-bearers to account and recommend domestic legislative and policy reforms to improve future compliance.

Unfortunately, for as long as the United Nations human rights system has existed, commentators have questioned the degree to which it is capable of, and is succeeding in, securing real-world change – i.e. demonstrable improvements in the on-the-ground enjoyment of human rights. According to this narrative, a significant ‘implementation gap’ has been allowed to develop between universal values and local realities.

Concern over this gap, and a determination to bridge it, has played a predominant role in shaping recent reforms of the international human rights system. For example, when proposing the replacement of the former Commission on Human Rights with a smaller, more powerful Human Rights Council, former United Nations Secretary-General Kofi Annan made clear that a primary objective of the new body would be to “lead the international community from the era of declaration to the era of implementation”.<sup>1</sup> Following this political lead, when the United Nations General Assembly formally established the Council with Resolution 60/251, it emphasized that it should “promote the full implementation of human rights obligations undertaken by States”.<sup>2</sup> To fulfil this mandate, the General Assembly instructed the Council to develop methods of work that “enable genuine dialogue, [are] results-oriented, allow for subsequent follow-up discussions to recommendations and their implementation, and also allow for substantive interaction with special procedures and mechanisms”.<sup>3</sup>

To assess the degree to which the Council and the wider human rights system, including the human rights mechanisms, have responded to this call, it is useful to recount how that system is meant to work in principle. In short, four conditions must be met if the universal system is to work effectively and have a real impact on the lives, rights and dignity of individual rights-holders around the world:

1. States must first agree on, and explicitly elaborate, the elements that constitute ‘universal human rights norms’. This means agreeing and adopting international human rights treaties setting down the civil, political, economic, social and cultural rights of individual people, and the related obligations of States to respect, protect and fulfil those rights. This body of human rights law can then be clarified and elaborated through soft law instruments such as United Nations principles, guidelines, resolutions and opinions.
2. States must then choose (voluntarily) to sign and ratify or accede to the various treaties, thereby binding themselves to, and accepting obligations under, international human rights law.
3. States then have a duty to fulfil those obligations by bringing laws, policies and practices into line with universal norms. To help this process of national implementation, as noted above, the United Nations has created a number of human rights mechanisms (Special Procedures, Treaty Bodies and the UPR). States are expected to engage and cooperate with these mechanisms by submitting regular progress reports and by implementing their recommendations (as appropriate). United Nations entities, including UNICEF, can also help States fulfil their international human rights obligations and commitments by supporting the domestic implementation of recommendations generated by the mechanisms.
4. States should track the progress of the domestic implementation of their international human rights obligations and commitments, including by implementing



Tumpoun children in Ratanakiri Province, Cambodia. The Tumpoun ethnic minority community is the largest in Ratanakiri, representing 43% of total indigenous people in the province. © UNICEF/UN0322905/Seng

the recommendations for improved compliance provided by the mechanisms (as appropriate), and measure the impact of this on the enjoyment of human rights (via indicators). This in turn allows States to report back to the United Nations mechanisms with objective data on achievements and challenges. In parallel with State reporting, civil society and United Nations country offices, including UNICEF, have the opportunity to contribute to ‘alternative reports’ to the mechanisms – providing independent assessments of progress and shortfalls.

Since the establishment of the United Nations, remarkable progress has been made in meeting the first two of these conditions.

Regarding the first, States have negotiated and adopted a comprehensive and deeply textured canopy of international human rights norms. A Universal Declaration and nine core treaties have been agreed, and these have been

complemented by thousands of resolutions, principles, guidelines, opinions and general comments (e.g. by Treaty Bodies).

Regarding the second condition, progress has been equally marked. The number of States choosing to ratify or accede to the international human rights treaties, and thus commit to the standards set forth in those instruments, has grown exponentially since their adoption. Today, all United Nations Member States have ratified at least one core international human rights treaty, and 80 per cent have ratified four or more.<sup>4</sup> As a result, many of the international conventions are moving towards universal ratification, including the Convention of the Rights of the Child (every United Nations Member State but one is now Party to the Convention).

However, progress on the third and fourth conditions is both more difficult to assess (it is, of course, relatively straightforward to count the number of human rights

conventions or the number of treaty ratifications, but not so with measuring levels of implementation and impact) and, most likely, far less pronounced.

This situation has not been helped by the broad failure of the Human Rights Council and its mechanisms to prioritize and realize the mandate to “promote the full implementation of human rights obligations undertaken by States”.<sup>5</sup> As a general rule, very little space has been provided for States and other national stakeholders to provide and exchange information on levels of implementation or to seek international technical and capacity-building support to improve compliance in the future. Moreover, there has, generally speaking, been a lack of systematic follow-up by the human rights mechanisms.

Notwithstanding, there are some (encouraging) signs that States are at last beginning to recognize and reverse this neglect. Over recent years, far more thought and attention has been paid, at national and international levels, to the ‘mechanics’ of implementation – the systems and processes through which States translate universal norms into local reality. Central to that push has been the emergence, especially in small developing countries, of so-called ‘national mechanisms for implementation, reporting and follow-up’ (NMIRFs) – single, streamlined legal bodies that collate, manage, coordinate and track progress on the implementation of recommendations from *all* international human rights mechanisms (together, in some cases, with those from regional mechanisms). Some of these States, supported by the Office of the High Commissioner for Human Rights (OHCHR) and non-governmental organizations (NGOs), including the Universal Rights Group (URG), have also begun to develop sophisticated implementation and reporting software, to support the work of their NMIRFs.

In 2018–2019, this revolution at national level began to be recognized and encouraged at United Nations level. A ‘group of friends on domestic implementation/NMIRFs’ was created in Geneva which, *inter alia*, uses the UPR to recommend the establishment or strengthening of NMIRFs in all United Nations Member States; subregional groups (e.g. the Pacific Community) began to hold meetings to share good practices and define principles for the operation of NMIRFs; and Paraguay and Brazil secured the adoption of Human Rights Council Resolution 42/30, establishing a process of regional consultations to drive the quantitative and qualitative evolution of NMIRFs, as the keystone of a global human rights ‘implementation agenda’.

In some cases, NMIRFs, backed by technology, have begun measuring changes (using indicators) in the domestic enjoyment of human rights, and (linked to this point) in the human rights impact of legal, policy and other reforms designed to implement United Nations recommendations.

Although a broad methodology for such empirical measurement of human rights change/impact was already proposed by OHCHR in 2012, using a system of output and outcome indicators, uptake among States has been low.<sup>6</sup> Today, especially thanks to NMIRFs and their implementing-reporting software, there is increasing (anecdotal) evidence that States are beginning to set up systems to measure human rights impact and change.

Linked with these developments, States also began to develop a more comprehensive or inclusive understanding of ‘implementation’, not as a *bureaucratic* exercise requiring the involvement of one or two government ministries, but as a *democratic* one necessitating the engagement of all parts of government, law enforcement agencies, judges and lawyers, parliamentarians, national human rights institutions (NHRIs) and civil society. For example, it is estimated that more than 50 per cent of UPR recommendations require or involve legislative action on the part of parliaments to be implemented – i.e. they cannot be realized through executive/government action alone.<sup>7</sup> Additionally, parliaments play a crucial role in overseeing the actions of the executive, including whether or not the government has implemented its international obligations. In some (best practice) cases, parliaments take forward this oversight function in consultation with NHRIs and national civil society – allowing for greater transparency and deeper public accountability.<sup>8</sup>

At United Nations level, States also began to consider the importance and mechanics of national implementation in the context of the 2030 Agenda for Sustainable Development, and the prevention agenda of Secretary-General António Guterres.<sup>9</sup> New resolutions at the Council made the case that States’ progress on the implementation of their human rights obligations and commitments would also, by definition, drive progress towards the achievement of the SDGs – ‘leaving no one behind’ – and towards building societal resilience, thus preventing human rights crises and – ultimately – violent conflict.<sup>10</sup>

Finally, over the past three years there has been a growing interest, as part of the global human rights implementation agenda, in the role of international development partners (e.g.

United Nations entities, including UNICEF, bilateral donors, and organizations such as the World Bank) in supporting domestic implementation. In 2018 and 2019, a group of these development partners convened meetings in Oslo and Stockholm, respectively, to exchange good practice in ‘rights-based approaches’ to official development assistance (ODA), especially via support to help developing countries implement United Nations human rights recommendations.<sup>11</sup> During the 2019 meeting of this ‘Oslo+’ process, participants recognized that, taken together and clustered by theme and objective, these recommendations represent a ‘goldmine’ for United Nations entities and bilateral donors – providing a perfect ‘way in’ for strategic cooperation with States.<sup>12</sup> Moreover, when one considers that over 90 per cent of SDG targets are grounded in international human rights law, it is clear that by supporting State implementation of human rights recommendations, development partners can also help States scale up progress in the context of the 2030 Agenda on Sustainable Development.<sup>13</sup> Indeed, this broad idea – that United Nations human rights recommendations should be integrated into development programming at national level as a key driver of progress towards the SDGs

– is central to, and a main goal of, the ongoing reforms of the United Nations development system, especially changes to the Resident Coordinator system, and the replacement of United Nations Development Assistance Frameworks (UNDAFs) with new – human rights-integrated – United Nations Sustainable Development Cooperation Frameworks (UNSDCFs).

### The reporting–implementation–reporting cycle

As part of this emerging implementation agenda, recent years have seen a deepening understanding of the reporting–implementation–reporting cycle (basically conditions 3 and 4 of the above-mentioned schema) governing State engagement and cooperation with the human rights mechanisms. That progress has included more precise thinking about how different domestic and international actors (including UNICEF) fit into that cycle and thereby exert influence and work with States to secure improvements in the enjoyment of human rights.

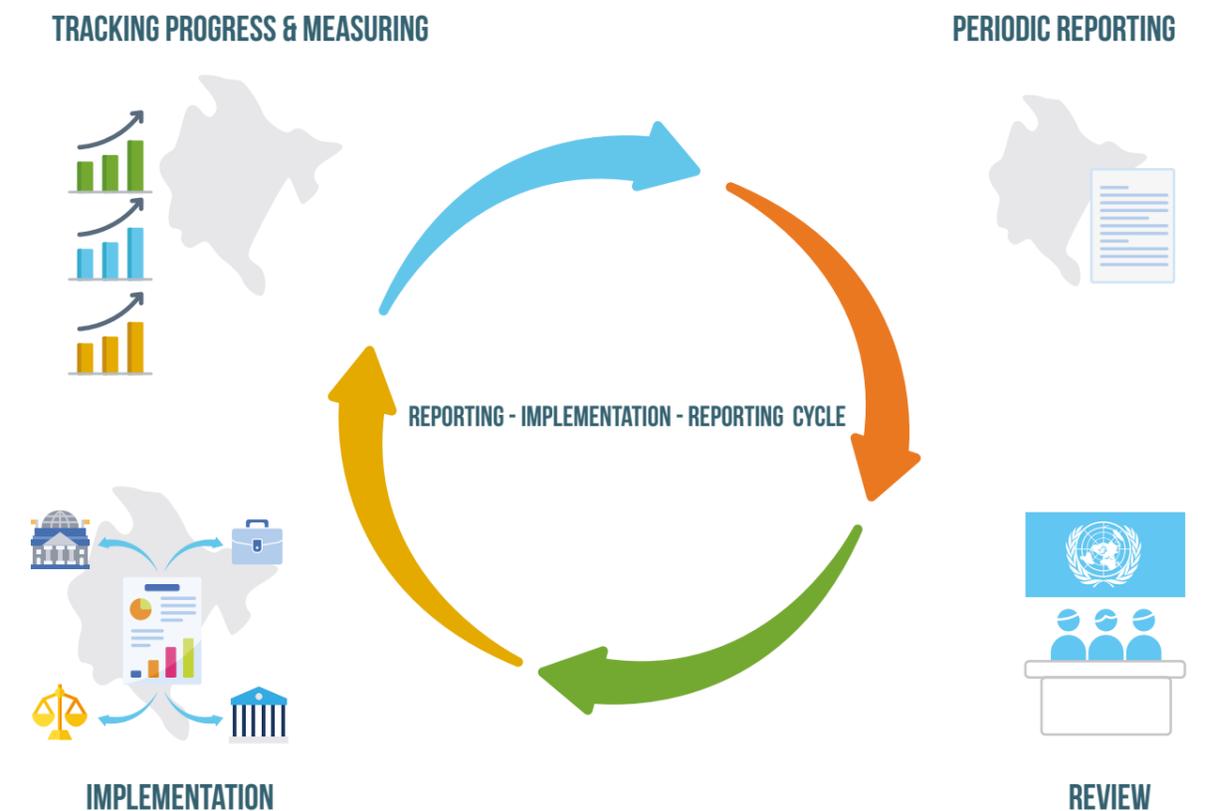


Figure 1. The reporting-implementation-reporting cycle

For the purposes of this report, the reporting–implementation–reporting cycle (see Figure 1) is understood to include the following four phases:

**1. State** (coordinated by the executive branch) and alternative (e.g. by civil society, NHRIs, United Nations entities) **periodic reporting** to the main United Nations human rights mechanisms (especially Treaty Bodies and the UPR – see Chapter 2 for more details) provides information on the contemporary situation of human rights in the country concerned, and updates on levels of implementation of previous United Nations recommendations (where appropriate).

**2. Review** of States’ and alternative periodic reports by the relevant United Nations mechanism, and the convening of a dialogue between representatives of the State concerned and members of the mechanism (e.g. experts in the case of Treaty Bodies, United Nations Member State diplomats in the case of the UPR) to discuss progress and challenges. At the conclusion of this phase, the relevant mechanism will issue recommendations to the reporting State for improved compliance with its international human rights obligations and commitments.

**3. Implementation**, by the State at national level, of recommendations received from the mechanisms (as appropriate). This entails collating and reviewing all

recommendations, managing them at national level (e.g. clustering them by theme or objective and organizing them in a central national database) and coordinating implementation across relevant government ministries (as well as, in some cases, relevant parliamentary committees, law enforcement agencies, judiciaries, etc.).

**4. Tracking progress** with the implementation of recommendations and **measuring** (using output and outcome indicators) the impact of implementation measures (e.g. new policies, laws, practices) on human rights. Information on progress is then fed back into the reporting–implementation–reporting cycle via States’ subsequent periodic reports, supplemented by further alternative reports, to the relevant United Nations mechanism.

A final point on this broad ‘cycle’ is that it mainly describes the process of States’ engagement with the Treaty Bodies and the UPR. The process of States’ cooperation with Special Procedures works somewhat differently. Most importantly, to review States’ progress, mandate-holders actually travel to the State concerned and conduct country missions. That said, because Special Procedures issue recommendations at the conclusion of their missions, and because States are expected to submit progress reports to mandate-holders (one or two years after a visit), the four phases outlined above nevertheless hold (broadly) true for all three United Nations human rights mechanisms.



A girl smiles for the camera while attending class in a UNICEF-supported learning centre in Camp 7 of Balukhali refugee camp in Cox's Bazar, Bangladesh. @UNICEF/UN0346605/Modola



Mandari Majhi is 38 years old and has 3 children. She is now 9 months pregnant with her 4th. © UNICEF/UNI296875/Narain

## CHAPTER 2.

# CHILDREN'S RIGHTS RECOMMENDATIONS

As shown in the previous chapter, United Nations Member States, especially those that have ratified a large number of human rights treaties and/or that have issued a standing invitation to Special Procedures, are engaged in an almost continuous process of review by the three main human rights mechanisms. During any given year, a (cooperative) State might be expected to: submit periodic progress reports to and appear before two or more Treaty Bodies; receive visits by one or two Special Procedures mandate-holders; and – once every five years – report to and appear before the Council's UPR Working Group.

As explained in the URG's 2019 policy report on 'Clustering and the integrated implementation of recommendations', each of the human rights mechanisms plays a slightly different – though complementary – role in the United Nations human rights system, and each has a different mode of operation.<sup>14</sup> Yet they all fulfil the same basic function – namely, to review States' progress on the implementation of their human rights obligations and commitments, and – by way of output – to provide recommendations for improved compliance in the future.

That output (i.e. the recommendations of the mechanisms) can indeed be prodigious. Over a four-to-five-year cycle, a typical United Nations Member State may expect to receive hundreds – if not thousands – of recommendations from the human rights mechanisms. This has left many States, in the words of one United Nations diplomat, feeling like they are 'drowning beneath a sea of recommendations'.

As noted in the previous chapter, a growing number of States have responded to this situation by treating all recommendations together, irrespective of which mechanism issued them, and by 'clustering' them by theme and objective. This makes the process of cooperating with the United Nations human rights system more manageable, and also allows States (and United Nations entities) to more easily identify priority human rights challenges (for example, if a country receives a lot of recommendations about torture prevention or access to quality education, then it suggests

these are areas where the State is failing to fulfil its human rights obligations). In some instances, States have built NMIRFs, which gather and cluster all recommendations in single national databases – making the overall process of data management and reporting more streamlined and efficient.

As well as making reporting to and cooperation with the United Nations human rights system more manageable, clustering and the establishment of NMIRFs can also provide an important boost to implementation. That is because, with reporting/data management burdens reduced, United Nations human rights recommendations can actually be an extremely useful resource for States. The recommendations of Treaty Bodies and Special Procedures are, in essence, independent policy advice from some of the world's foremost human rights experts. UPR recommendations, for their part, have enormous political weight – because they are delivered from one sovereign State to another, often in the presence of senior members of government. Moreover, United Nations human rights recommendations are the product of a State's *voluntary* and *sovereign* decision to become Party to a given human rights treaty (e.g. the Convention on the Rights of the Child), to invite and receive relevant Special Procedures mandate-holders or to participate in the UPR process. Linked with this point, recommendations (in particular, for the purposes of this report, children's rights recommendations) are formulated on the basis of States' *own submissions and views* (i.e. as contained in their periodic reports), as well as the views of national civil society; and they are the product of a State's *own direct engagement* with the mechanisms (e.g. dialogue with Treaty Bodies or participation in the UPR). In the case of the UPR, States even have the opportunity to *accept* (or not) the recommendations received.

All of this helps build a sense of ownership, with the result that recommendations are often (though not always) welcomed by the State concerned (i.e. they are not imposed from the outside), and – ultimately – that the State has a stake in, and will want to make progress on, their implementation.



Leaving their family behind, Haua (background), 17, and her sister, Zeinabou (left), travelled from Agadez, Niger, to Algeria, but after months of living on the streets and in cramped conditions with other migrants, they were repatriated to Agadez, where Haua gave birth to a son. © UNICEF/UNI337843/Haro

One important dimension of the foregoing is that the process of States' cooperation with the human rights mechanisms, and in particular the elaboration of a data set of clustered recommendations, represents a highly important 'window of opportunity' or 'entry point' for United Nations entities, including UNICEF. Because the State feels a sense of ownership, because the various United Nations-level reviews are undertaken on the basis of information received from all relevant national stakeholders (including independent civil society), and because recommendations carry important technical (i.e. in the case of the two expert mechanisms) or political (in the case of UPR) weight, key clusters of recommendations are likely to focus on the key human rights (in our case, children's rights) challenges faced by the country concerned. Moreover, and crucially, governments are likely to welcome offers of cooperation and support to help with implementation.

That, in short, explains why UNICEF engagement with the reporting–implementation–reporting cycle described in the previous chapter is so important. By feeding information on the children's rights situation in a country into the United Nations mechanisms (e.g. via alternative reporting), UNICEF can help ensure that the resulting recommendations focus on the most important children's rights challenges in the country, and that they are formulated in a manner that is both useful and implementable. Then, once relevant recommendations are issued, UNICEF can offer to help the government implement recommendations that it – in principle – already feels a sense of ownership of, and – again, in principle – wishes to take forward.

With these points in mind, the current chapter will provide a broad overview of the output of the three main United Nations human rights mechanisms as it pertains to children's rights. How many children's rights recommendations are generated each year, to which States, and on which particular issues (i.e. what are the most important clusters of children's rights recommendations)? The following chapter will then look at six focus countries to examine in more detail the recommendations received and the progress they have made in implementing them, as well as at the role of UNICEF offices in informing and shaping those recommendations (e.g. via alternative reports) and in working with the States concerned to support implementation.

## Universal Periodic Review

The UPR is a State-to-State peer review mechanism through which each and every United Nations Member State is expected, every five years, to present a report to the Human Rights Council on its national human rights situation. That report, together with additional submissions of information from civil society and from relevant parts of the United Nations system (e.g. Special Procedures, Treaty Bodies, UNICEF and other United Nations entities) is then considered by all other States in the UPR Working Group (i.e. the 'reviewing States'), a dialogue held with the State-under-review (usually represented at ministerial level), and recommendations extended. A summary of the dialogue and a list of all recommendations (including an indication of which enjoy the support of the State-under-review) is later adopted by the full Council as a 'review outcome'. The State-under-review is thereafter expected to pursue the implementation of (accepted) recommendations, and report back on progress five years later.

For the purposes of this report, URG analysed the outcomes of the UPR reviews of all 193 United Nations Member States, across both the first (2008–2011) and second (2012–2016) cycles. In addition, the outcome reports of the 28 States that had completed their third cycle reviews before the cut-off date for this report – the 28<sup>th</sup> session of the UPR Working Group – were also included.

URG's analysis shows that children's rights is one of the most important concerns raised by reviewing States in the UPR. In particular, it is the subject of a very high number of recommendations to States-under-review: over the course of the first 28 sessions of the UPR, reviewing States provided 11,212 recommendations on the rights of the child. This is more than 17 per cent of all UPR recommendations over the period (see Figure 2).

Within this overall figure, URG's analysis revealed a number of particularly important subthemes, including: violence against children at home/domestic violence related to children (1,229 recommendations); the rights of the girl child (1,217); the right to education (1,169); child labour (777); and harmful traditional practices such as female genital mutilation and child, early and forced marriage (CEFM) (689). Other priority concerns for UNICEF, such as vaccination (4 recommendations), nutrition (42) and children in humanitarian settings (14), have featured less frequently/prominently.

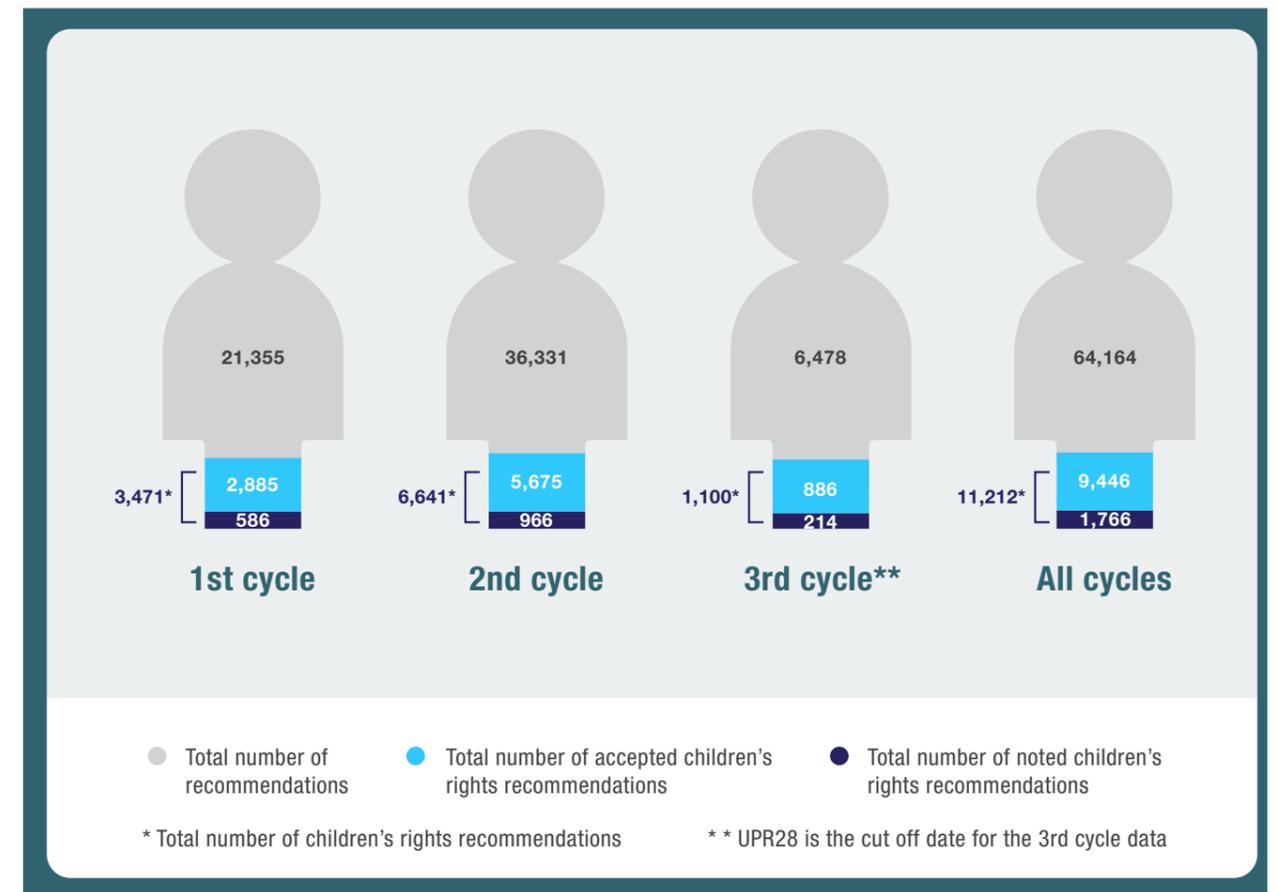


Figure 2. UPR recommendations on the rights of the child

The five countries responsible for extending the most children's rights recommendations since 2006 have been Slovenia (371 recommendations), Mexico (288), Uruguay (281), Canada (270) and Italy (266). Overall, States belonging to the United Nations Western European and Others Group (WEOG) extended the most recommendations related to the rights of the child (31.5 per cent of the total), followed by the Asia-Pacific Group (18 per cent) and the Eastern European Group (17.5 per cent). Interestingly, considering they cosponsor the annual Council resolutions on the rights of the child with the European Union (EU), countries from the Latin American and Caribbean Group (GRULAC) provided fewer children's rights recommendations than the other regions (only 17 per cent of the total).

Turning to the States-under-review that have received the most recommendations relating to children's rights, URG's analysis found the top five (across the first two cycles of the UPR) to be: 1) Democratic Republic of the Congo (123 recommendations); 2) Tanzania (103); 3) Somalia (98); 4) Costa Rica (92); and 5) Ireland (89 recommendations).

Looking in a little more detail at regional trends across the different UPR cycles, URG's analysis shows that African States (especially the Democratic Republic of the Congo, Somalia and Tanzania) received the most children's rights recommendations during the first cycle. Most of these recommendations focused on issues (subthemes) such as education, harmful traditional practices and forced labour. During the second cycle, children's rights recommendations had a more even geographical spread across countries from Africa, Western Europe and Latin America.<sup>15</sup> Key issues/subthemes included education, harmful traditional practices and juvenile justice. Finally, during the part of the third cycle covered by this report, most recommendations were directed to countries of the African region, with a particular focus on the rights of girls, the right to education, and children exposed to, or victims of, domestic violence. (It is important to note that given the peer-to-peer, political nature of the mechanism, UPR recommendations may not necessarily reflect the most serious human rights violations in a region).

## Special Procedures

Special Procedures are independent experts mandated by the Council to pursue improvements in the enjoyment of human rights in either a country-specific or a thematic context. Today, there are 55 Special Procedures mandates (44 thematic and 11 country-specific), including a number of thematic mandates relevant to children's rights (e.g. Special Rapporteur on the sale of children, Special Rapporteur on trafficking, especially women and girls, and the Working Group on discrimination against women and girls). These and other thematic mandates (broadly speaking) seek to promote and protect human rights in three main ways: by preparing reports clarifying different aspects of the human rights normative framework as it pertains to their mandate; by conducting country missions to assess the national situation and to work with domestic stakeholders (and United Nations Country Teams, UNCTs) to strengthen the enjoyment of human rights; and by receiving petitions or 'communications' from the victims of alleged human rights violations.

For the purposes of this analysis, URG scrutinized 311 reports by 9 thematic Special Procedures mandate-holders over the period 2006–2019. The mandates were selected based on their relevance to issues related to children's rights, while also taking care to ensure a balance between economic, social and cultural rights, and civil and political rights. The mandates chosen were: the Special Rapporteur on the sale and sexual exploitation of children; the Special Rapporteur on trafficking of persons, especially women and children; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right to education; the Special Rapporteur on the right to food; the Working Group on discrimination against women and girls; the Special Rapporteur on freedom of opinion and/or expression; the Special Rapporteur on torture and other ill treatment; and the Special Rapporteur on human rights and the environment. URG looked, in particular, at the country mission reports contained in annex to Special Procedures' annual reports to the Council – and at the country-specific recommendations presented therein. It also scrutinized the recommendations (to all States) presented in mandate-holders' general thematic (normative) reports. The results of the analysis are shown in Figure 3.

URG found that between 2006 and 2019, the 9 selected Special Procedures mandates extended 6,660

recommendations to States, of which 1,444 (22 per cent) were somehow related to children's rights. The most common subthemes covered by those recommendations were: the alignment of national legislation with international human rights standards, in particular the Convention on the Rights of the Child (19.8 per cent of children's rights recommendations); the sale and sexual exploitation of children (11.4 per cent); juvenile justice (10.5 per cent); the collection of disaggregated data related to children (9.9 per cent); the right to education (8.1 per cent); and the empowerment of young people (6.9 per cent). Other important clusters of recommendations included those on the rights of migrant and refugee children (6.3 per cent); and human rights awareness-raising, information campaigns and education (4.1 per cent). Other subthemes such as child poverty, children's rights in the context of the SDGs, child soldiers and alternative care were the subject of relatively few recommendations.

## Treaty Bodies

The United Nations human rights Treaty Bodies are committees of independent experts charged with overseeing States' compliance with the obligations contained in the nine human rights treaties (in addition, like Special Procedures, they also undertake an important norm-setting/clarification role and may receive petitions or 'communications'). There are 10 Treaty Bodies<sup>16</sup> – one for each of the treaties (including the Convention on the Rights of the Child), plus the Subcommittee on the Prevention of Torture. States Parties to a given convention are obliged to submit periodic reports on progress on the implementation of their obligations under the treaty, and regularly engage in dialogue with committee members. After having reviewed States' periodic reports and engaged in dialogue with the State party, Treaty Bodies publish 'concluding observations', including recommendations to the State for improved compliance in the future.

The following analysis is based on a sample group of 22 States.<sup>17</sup> Due care was taken to ensure a representative sample, including countries from all United Nations regional groups, and representing different population sizes, political systems, levels of economic development, and total number of treaties ratified. For this study, a total of 135 sets of concluding observations and recommendations to

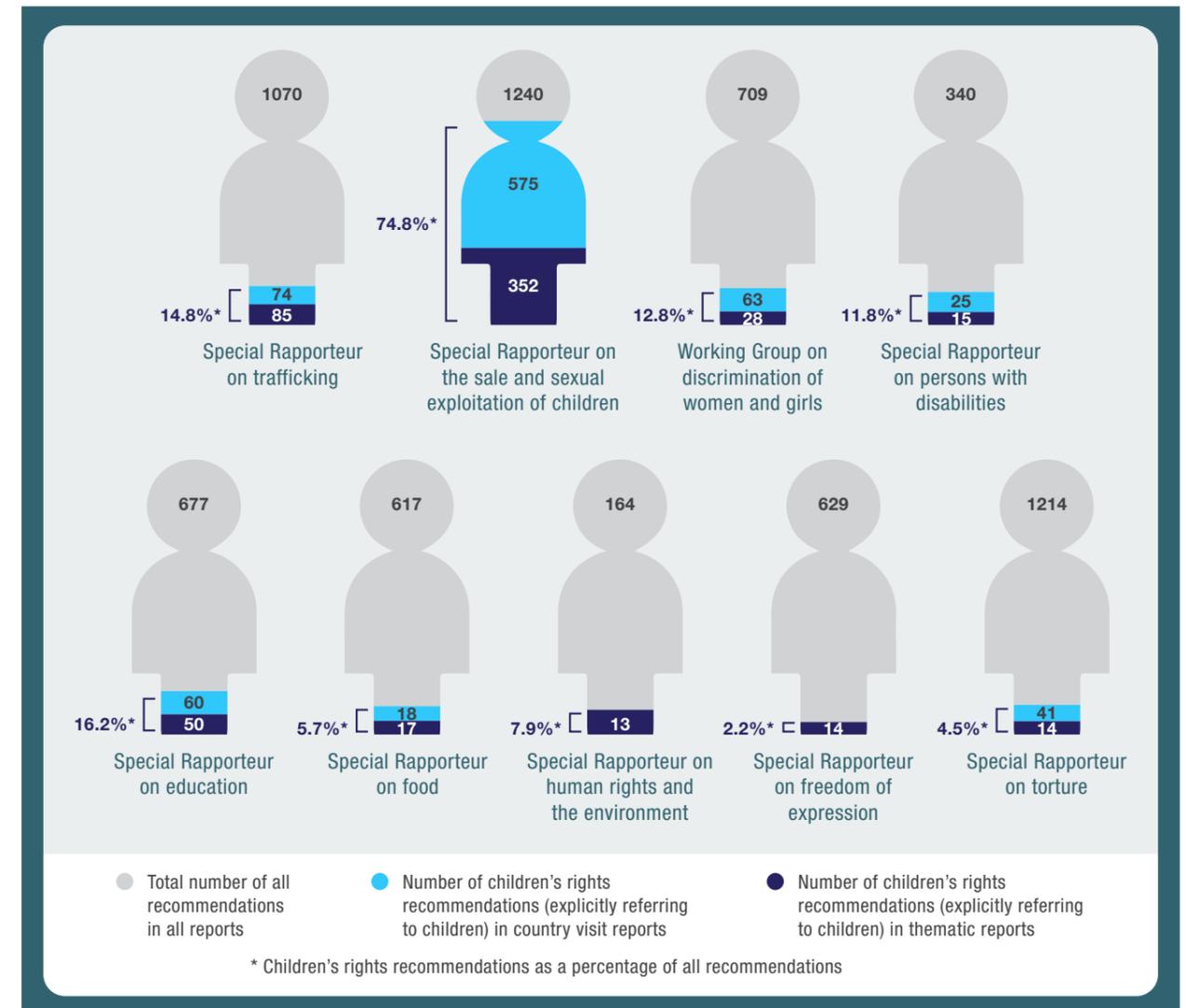


Figure 3. Special Procedures recommendations on the rights of the child

the reporting State from nine Treaty Bodies (not including the Subcommittee on the Prevention of Torture) were analysed. These were the concluding observations and recommendations from each of the 22 States' most recent reporting cycle. Where the concluding observations and recommendations from a State's most recent review had not yet been published (at the time of publication of this report), the analysis instead considers the recommendations received during the previous cycle.

URG's analysis (see Figure 4) shows that, across the selected sample, States received a total of 1,381 children's rights recommendations from the nine Treaty Bodies. Of these, 831 recommendations were delivered by the Committee on the Rights of the Child, while the remaining 550 came from the other eight Treaty Bodies.<sup>18</sup>

Of the latter group (i.e. the 'other' Treaty Bodies), the Committee on the Elimination of Discrimination against Women (CEDAW Committee) produced the most recommendations relating to children's rights (164 recommendations). The next committees most preoccupied with children's rights issues were the Committee on the Rights of Persons with Disabilities (96 recommendations); the Committee on Social, Economic and Cultural Rights (85 recommendations); the Human Rights Committee (78 recommendations); and the Committee against Torture (61 recommendations). By contrast, the Committee on Enforced Disappearances proffered only five children's rights recommendations during the analysis period – to two States – namely, Montenegro and Uruguay. (Notwithstanding, this may be partly explained by the relatively low number of ratifications of that Convention.)



César, 12, a sixth-grade student, smiles as he peers through a cement block window of a classroom at La Unión Educational Institute Secondary School in the northern municipality of Loricá in Córdoba Department, Colombia. © UNICEF/UNI74481/Markisz

Looking at particular children’s rights subthemes regularly addressed by the committees, the most significant cluster of recommendations was related to ‘child protection’ issues (223 recommendations). Broken down further, this general cluster included 38 recommendations on child trafficking, 32 on violence against children, 31 on juvenile justice, 25 on corporal punishment, 24 on child labour, 22 on CEFM, 17 on birth registration, 9 on female genital mutilation, 6 on the ‘best interests of the child’, 4 on nationality and 1 on ‘street

children’. Other important clusters included those related to social inclusion (100 recommendations) and education (50). Surprisingly, although Treaty Bodies have increasingly engaged on the issue of climate change over recent years, only 1 of the more than 3,500 recommendations analysed for this study looked at the impacts of global warming on children’s rights (formulated by the CEDAW Committee).

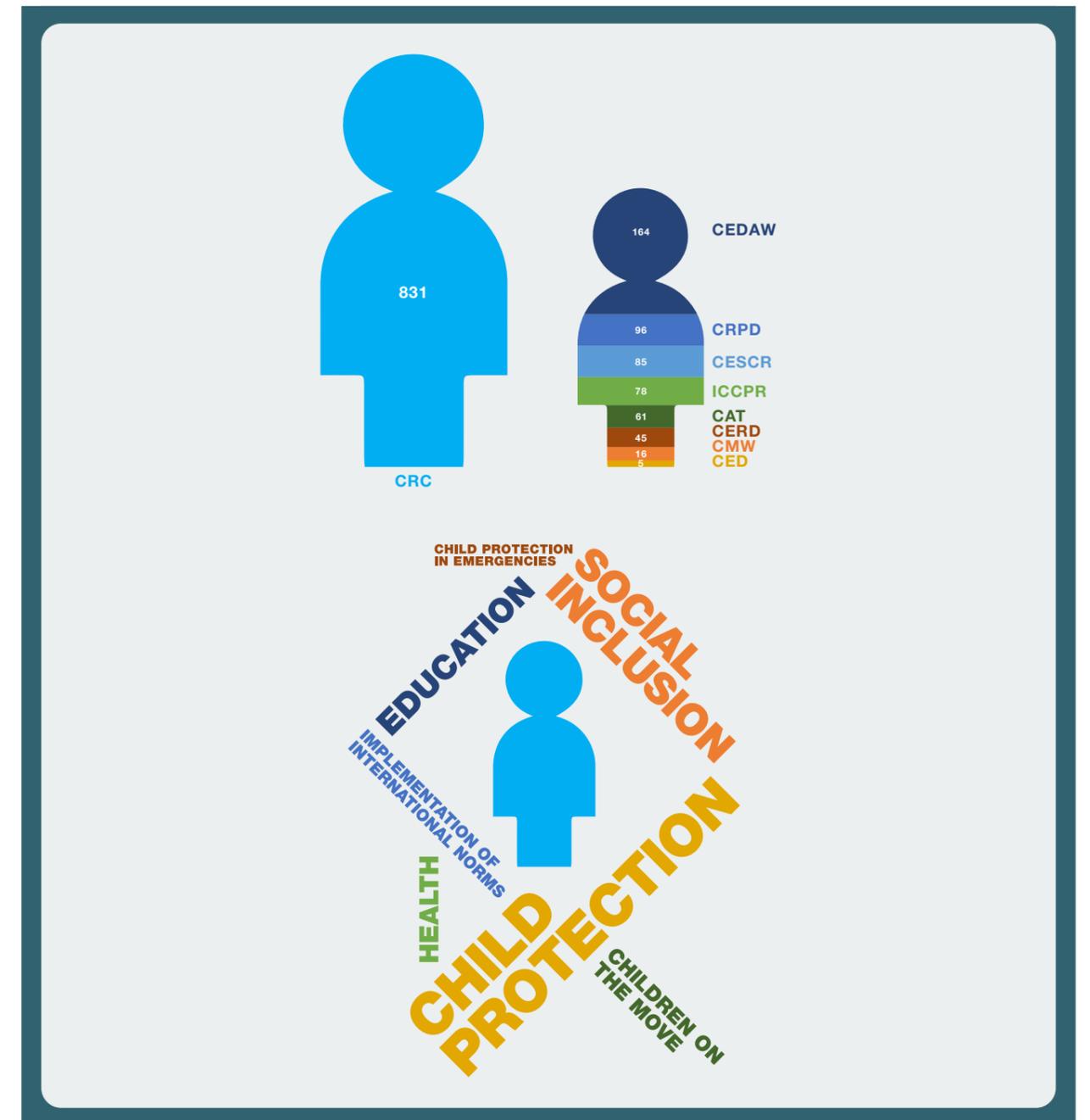


Figure 4. Treaty Body recommendations on the rights of the child (total recommendations by Treaty Body, and total recommendations by theme)

## CHAPTER 3.

# THE IMPLEMENTATION OF CHILDREN'S RIGHTS RECOMMENDATIONS IN SIX UNITED NATIONS MEMBER STATES, AND THE ROLE OF UNICEF

Building on the analysis of the global human rights 'implementation agenda', the reporting–implementation–reporting cycle and the generation of recommendations relevant to children's rights in the first two chapters, the present chapter seeks to 'dig down' into that broad implementation 'landscape' to understand and assess the degree to which state engagement with the human rights mechanisms, including via periodic reporting and the implementation of recommendations, has powered human rights change in the countries concerned. Inherently linked with this broad objective, the chapter also looks at the degree to which one United Nations entity, UNICEF, has been able to engage with the four phases of the reporting–implementation–reporting cycle to influence the eventual content and scope of recommendations issued and – crucially – to work with different actors at national level to support the implementation of those recommendations.

The chapter does so by presenting an analysis of the on-the-ground impact of the United Nations human rights mechanisms, and the related work and influence of UNICEF, in six United Nations Member States: Kyrgyzstan, Mongolia, Montenegro, South Africa, the United Kingdom of Great Britain and Northern Ireland (UK) and Uruguay. These country case studies were selected based on criteria including geographic/regional balance, coverage of different political and cultural backgrounds, levels of development, and degrees of UNICEF engagement with host States.

Mirroring the four phases of the reporting–implementation–reporting cycle, and based on an analysis of Special Procedures, Treaty Body and UPR recommendations to the States concerned, as well as relevant UNICEF reports, plans and other documentation, and interviews with UNICEF offices,<sup>19</sup> the analysis covers:

**1.** The States' periodic reports to the mechanisms, as well as UNICEF **periodic alternative reports**. These documents provide comprehensive information on the contemporary situation of children's rights in the country concerned, and on levels of implementation of previous children's rights recommendations.

**2.** The degree to which the States' periodic reports and UNICEF alternative reports (either on its own or as part of the wider UNCT) have influenced the mechanisms' **reviews** of domestic compliance and progress. By extension, the analysis looks at the degree to which UNICEF, via its alternative reporting and its direct engagement with relevant Treaty Bodies and Special Procedures mandates, has been able to influence the recommendations ultimately issued by the mechanisms (i.e. how closely those recommendations match the country-specific information, needs assessments and proposals presented by UNICEF).

**3.** The level and impact of support provided by UNICEF offices to the States concerned (the primary duty-bearers), to help them **implement** relevant (i.e. children's rights-related) recommendations, and thereby strengthen the enjoyment of human rights at national and local level. This might be direct support (e.g. capacity-building or technical assistance) to the government or indirect support via cooperation with, for example, parliamentarians, judges and lawyers, NGOs or the media.<sup>20</sup>

**4.** The degree to which UNICEF, working in cooperation with the State, is able to help **track progress** on the implementation of recommendations, and **measure** (using output and outcome indicators) the impact of implementation measures (e.g. new policies, laws, practices) on human rights, and then feed that information/data back into the reporting–

implementation–reporting cycle via inclusion in subsequent alternative reports (phase 1) to relevant United Nations mechanisms.

To make this assessment, URG analysts, working in close cooperation with UNICEF offices and the Human Rights Unit of the Programme Division in Geneva, undertook the following steps:

**1.** URG analysts identified, collated and 'mapped' all children's rights recommendations received by each of the six countries from all three mechanisms (in most cases, across the last two review cycles). The recommendations were then clustered by subtheme. This, together with consultations with the relevant UNICEF offices, allowed URG to identify key children's rights-related challenges in the countries concerned and, in particular, to pinpoint one important subtheme (per State) that would be the focus of analysis.

**2.** Once these key subthemes/issues had been identified, URG analysed States Parties' reports as well as UNICEF submissions to the mechanisms via relevant alternative reports to assess the degree to which they have influenced reporting–implementation–reporting cycles to ensure that key children's rights concerns identified in step 1 are integrated therein, and – ultimately – to ensure that the mechanisms deliver useful recommendations back to States.

**3.** To assess the degree to which UNICEF offices have subsequently been able to work with the States concerned to support the implementation of the key clusters of recommendations identified, URG analysed relevant UNICEF country programme documents, annual reports and other policy documents. URG also considered the UNSDCFs, formerly known as UNDAFs, of five of the States (the UK, as a high-income country, does not have an UNDAF), to understand the degree to which UNICEF has been able to support implementation via its involvement in UNCTs.

**4.** Subsequent national periodic reports to the human rights mechanisms, together with UNICEF contributions to alternative reports (i.e. submissions into the subsequent review cycles) were then analysed to measure the extent to which the key clusters of children's rights recommendations for each of the six countries have been implemented (by the State with the support of, *inter alia*, UNICEF).

**5.** Finally, where possible (necessary data were not present in all cases), URG collected human rights indicator data relevant to the priority subthemes identified for each of the six States, to measure the actual impacts of implemented recommendations on the enjoyment of children's rights. Indicator data were gathered from a number of sources, including the concerned governments (e.g. national statistics offices), UNICEF offices and headquarters, and other United Nations entities (e.g. the United Nations Development Programme, UNDP). Indicator data from the results-based programme documents of both UNICEF and the wider UNCTs were of particular value.

After concluding this analysis, URG conducted interviews with representatives of all six UNICEF offices to clarify certain salient points or to fill analytical gaps.

Based on these steps, the following analysis represents, to the best of URG's knowledge, a first-ever attempt to track progress through every phase of the reporting–implementation–reporting cycle that forms the basis of state cooperation with the United Nations human rights mechanisms – which is, in turn, the international community's principal means of driving improvements in the on-the-ground enjoyment of human rights.

It is the first time, in short, that an analysis has sought to understand key national and international inputs into human rights reviews by the three main United Nations mechanisms; has tried to match those inputs with relevant outputs from the reviews (i.e. recommendations); has then followed those recommendations back to the national level to track implementation and measure impact/change; and has then looked at the degree to which that 'tracking' and measurement information is fed back into the cycle. Moreover, the following analysis represents, again to the best of URG's knowledge, a first comprehensive assessment of the particular role played by United Nations entities in engaging with all four phases of the reporting–implementation–reporting cycle, thereby working with States and the mechanisms to direct and support human rights progress.



## COUNTRY CASE STUDIES

# MONTENEGRO

Identified subtheme: National child welfare/  
child protection systems

URG's analysis of children's rights recommendations received by Montenegro between 2008-2018\* identified a large cluster (i.e. number) of recommendations focused on the country's child welfare and child protection systems. This identification of a primary children's rights concern in Montenegro was confirmed by the UNICEF country office.

### Background

Immediately after gaining independence in 2006, Montenegro declared that it would accede to all international treaties and other agreements to which the State Union of Serbia and Montenegro was Party, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture (CAT), the Convention on the Elimination of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. This was followed by the ratification, in 2009, of the Convention on the Rights of Persons with Disabilities (CRPD). In 2006, Montenegro also applied to accede to the Council of Europe. In 2010, Montenegro became a candidate for membership of the EU. Alignment of its national laws and practices with international human rights standards, including in the area of children's rights, is one of the EU's accession criteria. Montenegro's membership talks have, therefore, provided a significant boost to national efforts to improve compliance with its international human rights obligations.

The specific children's rights concern identified for this study (i.e. child welfare and child protection) has long been an

important human rights challenge in Montenegro, a fact recognized by the Government itself. The country's child welfare/child protection system has traditionally been reliant on institutional care and the distribution of financial aid, rather than on supporting children and childcare providers through, for example, psychosocial assistance or counselling.

At the time of the country's independence, kinship foster care was a relatively common form of alternative care. Non-kinship foster care was, however, essentially non-existent. Children without parental care were often stigmatized, and very few children were adopted (e.g. only five in 2009, across the whole country).<sup>21</sup> The main law regulating social and child protection systems, adopted in 2005 (before the dissolution of the union with Serbia), was rather 'paternalistic' in character. For example, it focused on providing institutional solutions for children at risk, rather than measures to prevent the need for institutionalization from arising in the first place. Related to this point, many childcare workers were either demotivated or insufficiently qualified, and there was a complete absence of the kinds of family support services that might help prevent the need for institutionalization. Indeed, the institutionalization of children (as a first rather

than a last resort) was so ingrained in Montenegrin society that it used to be defined/recognized as a 'right of the child'. In 2010, Montenegro had 367 children in institutional care, out of a population of just 620,000 people.<sup>22</sup> This was one of the highest per capita rates of child institutionalization in Europe.

The issue of an over-heavy reliance on institutional care was particularly marked for children with disabilities. Again, in many ways this was based on an ingrained societal reflex. A 2010 study by UNICEF found that 40 per cent of Montenegrin citizens were of the opinion that *all children with disabilities* should be placed in special institutions, while 64 per cent believed it was unacceptable for children with disabilities to be placed in the same school class as 'their children'.<sup>23</sup> The high-profile case of the Komanski Most institution for adults with severe mental disabilities, which at the time accommodated 25 children together with over 160 adults, was emblematic of a much wider problem – an over-reliance on the institutionalization of children, especially children with special needs.

### Engagement with the United Nations human rights system

In large part due to the country's determination to become a member of the EU, Montenegro has a strong record of cooperation with the United Nations human rights mechanisms, including the Committee on the Rights of the Child, the Committee against Torture and the Committee on the Rights of Persons with Disabilities. This cooperation, plus Montenegro's related determination to improve compliance with international standards (i.e. via the implementation of recommendations), created an important opportunity for UNICEF Montenegro to make the case for – and support the realization of – reform of the country's child welfare/child protection system (including with regard to the particular situation of children with disabilities).

As part of a long-term strategy to use engagement with the different phases of the reporting–implementation–reporting cycle described in Chapter 2 to drive reform and better promote and protect children's rights in Montenegro, the UNICEF country office has regularly fed information into

the United Nations human rights mechanisms (especially Treaty Bodies) via alternative reports, and has then sought to work with the Government to implement the resulting recommendations.

That strategy goes back to 2010, when UNICEF submitted a detailed alternative report to the Committee on the Rights of the Child and held a preliminary dialogue with members, ahead of Montenegro's initial review. UNICEF used those channels to draw attention to the challenges posed by Montenegro's existing child welfare/child protection system, and to propose possible changes at institutional, legislative and policy levels. Importantly, UNICEF argued that those changes must take place in an inclusive manner, with the support and engagement of those parts of the State responsible for social security/welfare, health, education, justice and budgets, as well as with relevant NGOs.

A review of the Committee's 2010 and 2018 concluding observations shows that UNICEF information and proposals on child welfare/child protection heavily influenced relevant parts of the Committee's 'concluding observations' on the situation in Montenegro (especially under the heading 'Family environment and alternative care'), including its recommendations to the State.

For example, in its alternative report to the Committee in 2010, UNICEF placed particular emphasis on Montenegro's Law on Child and Social Protection, and proposed certain reforms, including in the areas of data collection, especially covering children in need of special protection measures. Following the country's review later that year, the Committee's concluding observations likewise emphasized the need to reform this law, including through improved data protection. Other key issues and proposals in the UNICEF alternative report were likewise reflected in the Committee's concluding observations, notably with regards to institutionalization (including of children with disabilities), programmes to prevent the abandonment of children in at-risk families, improving the capacity of care service providers, alternative care programmes, and awareness-raising to address societal misconceptions or prejudice.

Moreover, URG's analysis found clear evidence that the Committee has been able to use information provided by UNICEF ahead of subsequent reviews to help

assess Montenegro's progress in implementing earlier recommendations. In addition to allowing Committee members to track and measure progress, such information also helps them 'fine-tune' subsequent concluding observations/recommendations so that they address implementation gaps.

Leveraging the perpetual nature of the reporting–implementation–reporting cycle in this way can also allow the level of ambition of Treaty Body recommendations to be gradually increased over time. For example, in 2010 the Committee recommended that Montenegro integrate the 'best interests of the child' principle into national law. Ahead of the next review in 2018, both the State (in its national report) and UNICEF (in its alternative report) were able to inform Committee members that this recommendation had been implemented (Montenegro had integrated the

principle into a new Treatment of Juveniles in Criminal Proceedings Act (2011), a new Child and Social Protection Law (2013) and a revised Family Law Act (2016)).<sup>24</sup> On the basis of this information, the Committee's 2018 concluding observations urged the State to go one step further and develop procedures and criteria to provide guidance on the proper integration and interpretation of the legislative provision.<sup>25</sup>

Whereas UNICEF submits its own alternative reports under the Convention on the Rights of the Child, in the case of other treaties its analyses and proposals are, more often than not, put forward via relevant UNCTs as part of wider United Nations alternative reports. Notwithstanding, the underlying 'theory of change' remains the same. For example, in 2017, Montenegro was reviewed for the first time by the Committee on the Rights of Persons with Disabilities. The United Nations



A high school volunteer plays with a child with disabilities in the day care centre of the Pljevlja municipality in the northern part of Montenegro. ©UNICEF Montenegro/Dusko Miljanic

report to the Committee ahead of its dialogue with the State includes a strong emphasis on children's rights – the result of close collaboration between the UNICEF country office in Montenegro and the wider UNCT. When the Committee adopted its concluding observations following the review, it covered and made recommendations on a large number of the children's rights issues identified in the United Nations report (e.g. on freedom from exploitation, violence and abuse,<sup>26</sup> and on reform of the country's childcare strategy).<sup>27</sup> Regarding childcare, for example, the Committee – in a clear echo of the proposals presented in the alternative report – urged Montenegro to allocate adequate resources to early intervention,<sup>28</sup> improve social services for children with disabilities,<sup>29</sup> accelerate efforts to reduce the institutionalization of children,<sup>30</sup> and ensure reliable support to at-risk families to prevent child abandonment.<sup>31</sup>

### Implementation and impact

In addition to inputting information into the reporting–implementation–reporting cycle to help inform and shape the children's rights recommendations generated by the mechanisms, the UNICEF country office in Montenegro has also been active, over the past 10 years, in working with the Government and other national stakeholders to promote and support implementation of those recommendations (as appropriate). This has included national advocacy campaigns to press for the implementation of certain clusters of recommendations, legislative and policy development support to relevant ministries and agencies, and capacity-building assistance (e.g. awareness-raising and training). In some instances, this work was also done in partnership with the EU – to help prepare the ground for accession. A few examples serve to illustrate these points.

First, following Montenegro's 2010 review before the Committee on the Rights of the Child, UNICEF worked with relevant line ministries to help implement the important cluster of recommendations related to the country's childcare system. In particular, from 2011 to 2016, in partnership with UNDP and the EU, UNICEF supported the Ministry of Labour and Social Welfare to take forward reforms to the country's social welfare and childcare system, including through an initiative to boost social inclusion.

One result of this cooperation was the elaboration and adoption of a new Law on Social and Child Protection, in line with international standards. The new law prohibits the

institutionalization of children under the age of three years, and further provides that the institutionalization of children must in all cases be seen as an option of last resort. The new law has been supplemented by a further 27 by-laws covering, *inter alia*, standards of work for child protection services, and pluralism in service provision and professional licensing.

Another outcome of the reforms was a general strengthening of Montenegro's social welfare and childcare capacity (at an institutional and administrative level), notably through the establishment of an Institute for Social and Child Protection to guarantee service quality and professional accountability, the introduction of a new case management system, reform of the country's Centres for Social Work (responsible for the well-being of over 18,000 children with various vulnerability profiles) and the development of services to prevent the need for recourse to childcare institutions.

When undertaking this work, UNICEF, in cooperation with the State (see below), took steps to measure the impact of the above 'implementing measures' on the enjoyment of children's rights. Data gathered by the Government and UNICEF show that between 2010 and 2019 the number of children placed in institutional care declined by 50 per cent, while in 2017 the country achieved the important milestone of having no child under three years in institutional care. Over the same nine-year period, the number of day-care centres for children with disabilities increased from 2 to 15.<sup>32</sup>

A second example relates to training and capacity-building support. Between 2011 and 2016, under the above-mentioned social welfare and childcare reforms, UNICEF helped train over 200 staff across the country's network of Centres for Social Work. This capacity-building programme included training in case management, foster care, family counselling and the prevention of child abandonment. Partly as a result of this cooperation, between 2010 and 2019 the number of children placed in foster care rose by 15 per cent, while placements in non-kinship foster care environments increased more than fivefold.<sup>33</sup> Furthermore, between 2017 and 2018 the number of licensed social workers in Montenegro increased from 12 to 357.<sup>34</sup>

A third example relates to United Nations recommendations on the issue of children with special needs. Partly as a result of UNICEF work with the Commission for the Orientation of Children with Special Needs and resulting improvements in working methods, between 2010 and 2014 the number of children assessed as having special educational needs

increased by over 100 per cent (from 654 to 1,350).<sup>35</sup> Moreover, between 2010 and 2019 the number of modern day-care centres in Montenegro (that are able to cater to those with special educational needs) increased from 2 to 15, while in 2017 a first 'small group home' (which aims to simulate a family environment) was established for children with disabilities who lack parental care.<sup>36</sup>

Lastly, recognizing that the implementation of United Nations human rights recommendations is as much about changing societal 'mindsets' or attitudes as it is about amending legislation or building childcare centres, UNICEF has, since 2010, run a series of successful educational or awareness-raising campaigns in Montenegro. According to the polling company Ipsos, one such campaign – the UNICEF-supported 'It's about ability' campaign – has led to a significant improvement in public attitudes towards children with disabilities. Between 2010 and 2016 (i.e. the end of the campaign), the number of people who found it acceptable for children with disabilities to attend the same class as their own child/children increased from 35 per cent to 80 per cent.<sup>37</sup> In another example, the 'Every child needs a family' campaign, designed to inform the general public about the reasons for the reform of the Law on Social and

Child Protection, reached 87 per cent of the Montenegrin population, and 17 per cent of those surveyed said that the campaign had helped to change their minds about foster care.<sup>38</sup>

A final point on implementation and impact is the important role that the UNICEF office has played in strengthening the State's own capacity to measure human rights change. In less than 10 years, Montenegro has gone from a situation marked by an almost complete absence of children's rights indicator data to one today where the State gathers relevant data in an increasingly systematic manner (via, for example, the new Integrated Information System of Social Welfare, the Montenegro Education Information System, the Health Information System and the Judicial Information System). One particularly important data collection exercise took place in 2013 (with UNICEF support): a Multiple Indicator Cluster Survey. This remains the most comprehensive and reliable data collection exercise yet undertaken in Montenegro and helped generate a large and internationally comparable data set for issues ranging from early childhood development, to attitudes on domestic violence, child discipline and life satisfaction.

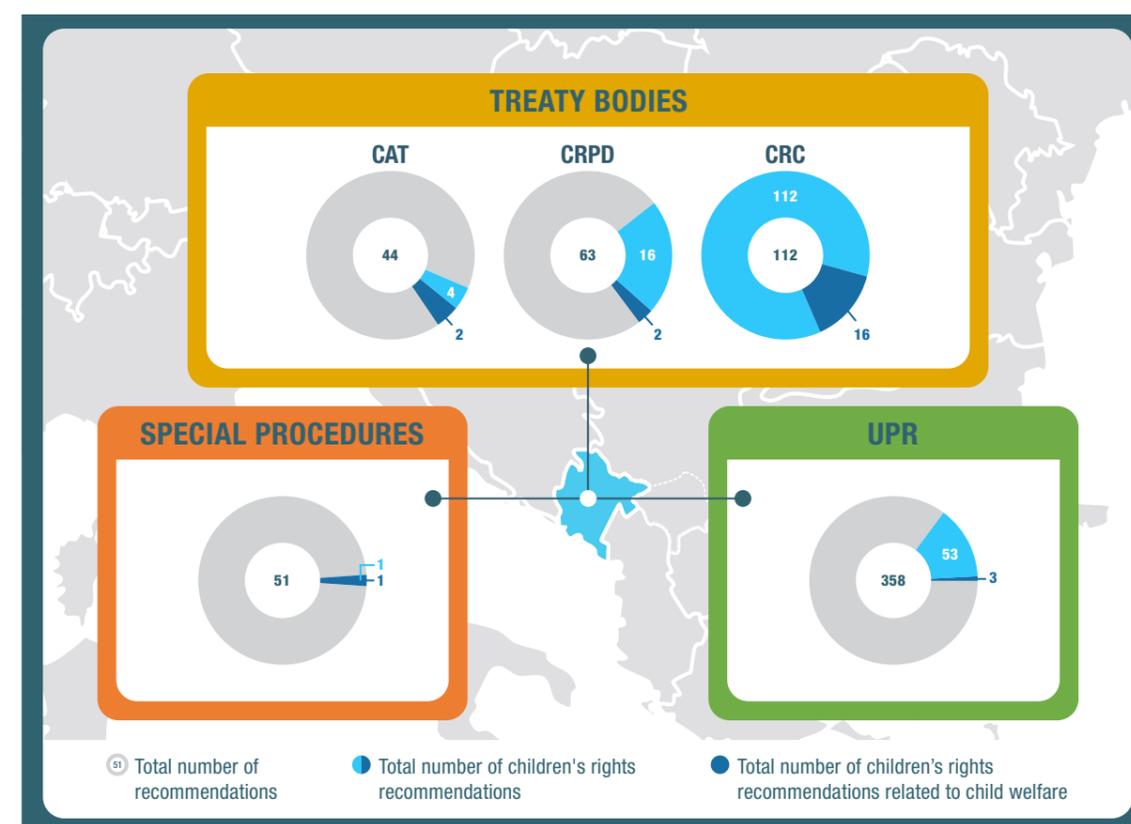


Figure 5. Children's rights recommendations received by Montenegro, including those focused on child welfare and child protection



# KYRGYZSTAN

## Identified subtheme: Child, early and forced marriage

URG's analysis of children's rights recommendations received by Kyrgyzstan between 2007-2018 identified a large cluster (i.e. number) of recommendations focused on the issue of 'bride-kidnapping' and, in particular, CEFM. This identification of a primary children's rights concern in Kyrgyzstan (the practice is known locally as *ala kachu*) was confirmed by the UNICEF country office.

## Background

One issue that has long been a major human rights challenge for Kyrgyzstan is the practice of bride-kidnapping.<sup>39</sup> The seriousness of this problem has been repeatedly recognized by the United Nations human rights mechanisms. The practice, which involves the abduction of women or girls with a view to forcing them into marriage, is usually associated with violence against women and rape. The practice represents a serious violation of a range of human rights, including the right to be protected from all types of violence and abuse, the right to a free and consensual marriage and, in extreme cases, the right to life.

Though assessments of the prevalence of bride-kidnapping in Kyrgyzstan vary due to the lack of disaggregated data, they nevertheless indicate that between 15 per cent<sup>40</sup> and 75 per cent<sup>41</sup> of marriages in the country are the result of this harmful (often improperly called 'traditional') practice. Moreover, a 2014 analysis by UNICEF found that nearly 14 per cent of girls under the age of 19 were 'married' – meaning they may well have been the victim of CEFM.<sup>42</sup> CEFM is a serious violation of the rights enshrined in the Convention on the Rights of the Child, including article 16(2), as well as those enshrined in

the Convention on the Elimination of Discrimination against Women, including article 16. Notwithstanding, given the interdependent and interrelated nature of human rights, CEFM undermines a wide range of children's rights, including the rights to education, health and life.<sup>43</sup>

## Engagement with the United Nations human rights system

Kyrgyzstan is Party to six of the core human rights treaties, including the Convention on the Rights of the Child (ratified in 1994) and the Convention on the Elimination of Discrimination against Women (ratified in 1997). The State has reported three times to the Committee on the Rights of the Child – in 2000, 2004 and 2014 – and five times to the CEDAW Committee – in 1999, 2004, 2008, 2015 and early 2020. It does not maintain a standing invitation to human rights Special Procedures, though it has accepted eight visits since 2001, including from the Special Rapporteur on violence against women (2009), the Special Rapporteur on the sale of

Aisuluu, 42, was abducted and forced to marry when she was just 17 years old and was at University studying to be a teacher in Bishkek, the capital city of Kyrgyzstan. Bride kidnapping, or Ala-Kachuu, is a dangerous practice where men abduct a girl or woman and force them to get married. The practice violates the rights of girls and women and, although illegal in Kyrgyzstan, continues to happen.

Today, Aisuluu works on gender issues, helping other women to become financially independent. Financial independence provides freedom of action, freedom of choice and speech and opens up new opportunities for them. ©UNICEF/UNI230226/Zhanibekov

children (2013) and the Working Group on disappearances (2019). Kyrgyzstan has also accepted a visit by the Working Group on laws that discriminate against women, which is scheduled to take place in 2020. The country reported to the UPR Working Group in 2010, 2015 and 2019.

The UNICEF country office has – in combination with other relevant parts of the UNCT such as UN Women – engaged with the reporting–implementation–reporting cycles of each of these mechanisms, to raise the issue of bride-kidnapping, in particular when it involves CEFM, and to support the implementation of relevant recommendations.

Through its own submissions and as part of wider UNCT alternative reports, information and proposals provided by UNICEF have helped ensure that each of the main human rights mechanisms has devoted considerable attention to the issue of CEFM. This has, in turn, meant that the mechanisms have produced a large number of strong recommendations to Kyrgyzstan aimed at halting and preventing the practice.

For example, since 2000 almost every Treaty Body review of Kyrgyzstan has resulted in recommendations to the State on bride-kidnapping/CEFM. These include the Committee on the Rights of the Child (in 2000, 2004 and 2014), the CEDAW Committee (in 2004, 2008 and 2015), the Committee on Economic, Social and Cultural Rights (in 2000 and 2015), the Human Rights Committee (in 2014) and the Committee against Torture (in 2013).

UNICEF Kyrgyzstan has also taken innovative steps to leverage the United Nations mechanisms to try to halt and prevent bride-kidnapping/CEFM. For example, in 2013, together with 13 other organizations, it urged members of the CEDAW Committee to conduct a country visit to Kyrgyzstan (a highly unusual step for a Treaty Body). Remarkably, the Committee and the State agreed, which led to an on-the-ground inquiry, in 2016, into the State's "failure to prevent, protect and assist victims, as well as to prosecute and adequately punish perpetrators, of bride-kidnapping".<sup>44</sup>

Similarly, the visits of Special Procedures and the UPR mechanism have also resulted in a large number of practical recommendations to the State. Three of the four most recent country missions by Special Procedures mandate-holders (specifically, the missions of the Special Rapporteur on the right of everyone to the highest attainable standard of

physical and mental health,<sup>45</sup> the Special Rapporteur on the sale of children, child prostitution and child pornography,<sup>46</sup> and the Special Rapporteur on violence against women)<sup>47</sup> have generated recommendations on bride-kidnapping/CEFM. In each case, the UNICEF country office worked closely with, and provided significant information to, the visiting mandate-holders. Regarding the UPR, during the first cycle, seven reviewing States provided recommendations on bride-kidnapping/CEFM. That number increased to eight in the second cycle. A number of these UPR recommendations reference Special Procedures and Treaty Body concluding observations – demonstrating the complementary and mutually reinforcing nature of the three mechanisms.<sup>48</sup>

Finally, the work of the three main human rights mechanisms has been complemented by the engagement of other parts of the United Nations system. For example, in 2011 the High Commissioner for Human Rights visited the country, followed two years later by the Assistant Secretary-General for human rights. Their findings and proposals on bride-kidnapping/CEFM helped inform a number of the UPR recommendations provided to Kyrgyzstan in 2015.

As a result of this engagement, the mechanisms have provided a range of recommended measures to tackle the problem of bride-kidnapping/CEFM in Kyrgyzstan. They include: training police officers and judges;<sup>49</sup> the launch of public awareness-raising campaigns and educational programmes;<sup>50</sup> new and/or amended legislation to increase sanctions against those found guilty of bride-kidnapping/CEFM, including parents who force their children to marry and religious leaders who perform unlawful marriage ceremonies;<sup>51</sup> judicial steps to increase prosecutions and provide better compensation for victims;<sup>52</sup> and the establishment of adequate victim support services, including shelters.<sup>53</sup>

## Implementation and impact

In addition to feeding information into the human rights mechanisms to help shape recommendations, the UNICEF country office has also worked to help promote the implementation of consequent recommendations. Compared with the other case studies covered in this report, UNICEF has not been able to rely, to any great degree, on securing change through cooperation with the Government of Kyrgyzstan. Because bride-kidnapping/CEFM is seen as

a 'traditional practice' in the country, government ministers are often reluctant (though this appears to be diminishing over time) to adopt necessary measures (which might be unpopular with the general population) to tackle it. According to members of the UNICEF country office, this is even the case for the implementation of recommendations that are, in principle, acceptable to the State (e.g. accepted UPR recommendations).<sup>54</sup>

Therefore, the primary strategy of UNICEF has been to work with other 'non-executive' national actors to drive reform, including by changing societal perceptions of the practice. Such efforts were given greater urgency and added impetus by the shocking murder in 2018 of Burulai Turdaaly Kyzy, a 20-year-old medical student from Bishkek, who was due to be married to the man she loved, yet was instead murdered by a jealous admirer who 'bride-kidnapped' her to force her into marriage. In a shocking twist to the story, it emerged that after her father had notified the police of her kidnapping, the police had taken Burulai and her 29-year-old kidnapper into custody and left the two alone together in a room. It was there that he had stabbed her to death.

The case of Kyrgyzstan is also interesting in that it is an example of the international community adopting a 'One UN' approach to confronting a sensitive national issue. In that regard, UNICEF has worked closely with other members of the United Nations Gender Group in the country, including UN Women, the United Nations Population Fund (UNFPA) and UNDP, as well as with third-country embassies (e.g. the UK Embassy).

One interesting example of how UNICEF and the wider Gender Group have worked with other national stakeholders to generate reform is their engagement with women parliamentarians. Working with these MPs, UNICEF has been able to support the passage of legislative amendments to the Criminal Code increasing the legal age of marriage to 18 and raising the level of penal sanction for bride-kidnapping to 10 years' imprisonment. Further legislation was also passed sanctioning parents who allow bride-kidnapping/CEFM, as well as religious leaders who oversee wedding ceremonies involving a minor.

As a result of these legislative reforms, 2018 saw a considerable increase (by around 100 per cent compared to the previous year) in the number of prosecutions under the

new article 155 of the amended Criminal Code. Specifically, the number of such prosecutions jumped from 33 in 2014 to 52 in 2017 and 110 in 2018.

UNICEF has also supported training programmes for over 520 police officers, social workers and staff at bride-kidnapping hotline call centres, to build awareness and strengthen capacity to implement the new laws. As noted above, it has also worked with other relevant stakeholders, including religious leaders, to prevent incidences of bride-kidnapping. For example, in 2016, engagement with the Muslim community led to the Head of the 'Muftiat' issuing a public notice to all Imams recalling the obligation to register all marriages and not to perform services for anyone under the age of 18.<sup>55</sup>

This latter example was part of a broader strategy to change public perceptions about the practice of bride-kidnapping. In pursuit of the same objective, in 2018, UNICEF conducted a study on child marriage-related practices in two communities, to inform the development of a 'communications road map' to change societal attitudes to bride-kidnapping/CEFM. UNICEF then worked with other international actors and local civil society organizations to implement the road map and raise national awareness of the damage done by such 'traditional practices'.<sup>56</sup> For example, in 2018, UNICEF and UNDP worked with the UK Embassy to support the production of an award-winning short film called 'Abduction'. The film was shown throughout the country and had a significant impact on public attitudes. In another innovative example, in 2018, UNICEF supported a group of schoolchildren who used 'street theatre' to raise awareness about gender-based violence. The campaign generated extensive interest on social media, receiving over 200,000 views.<sup>57</sup>

As in other country case studies covered by this report, UNICEF (alongside UNFPA and with support from the United States Agency for International Development, USAID) has also provided technical assistance to improve disaggregated data collection and analysis (via a Multiple Indicator Cluster Survey carried out by the National Statistical Committee). The most recent survey results, for 2018, suggest that important progress has been made over recent years. Between 2014 and 2018, for example, the proportion of girls under the age of 19 who were married fell from 13.8 per cent to 9.1 per cent. Notwithstanding, much work remains to be done.<sup>58</sup>

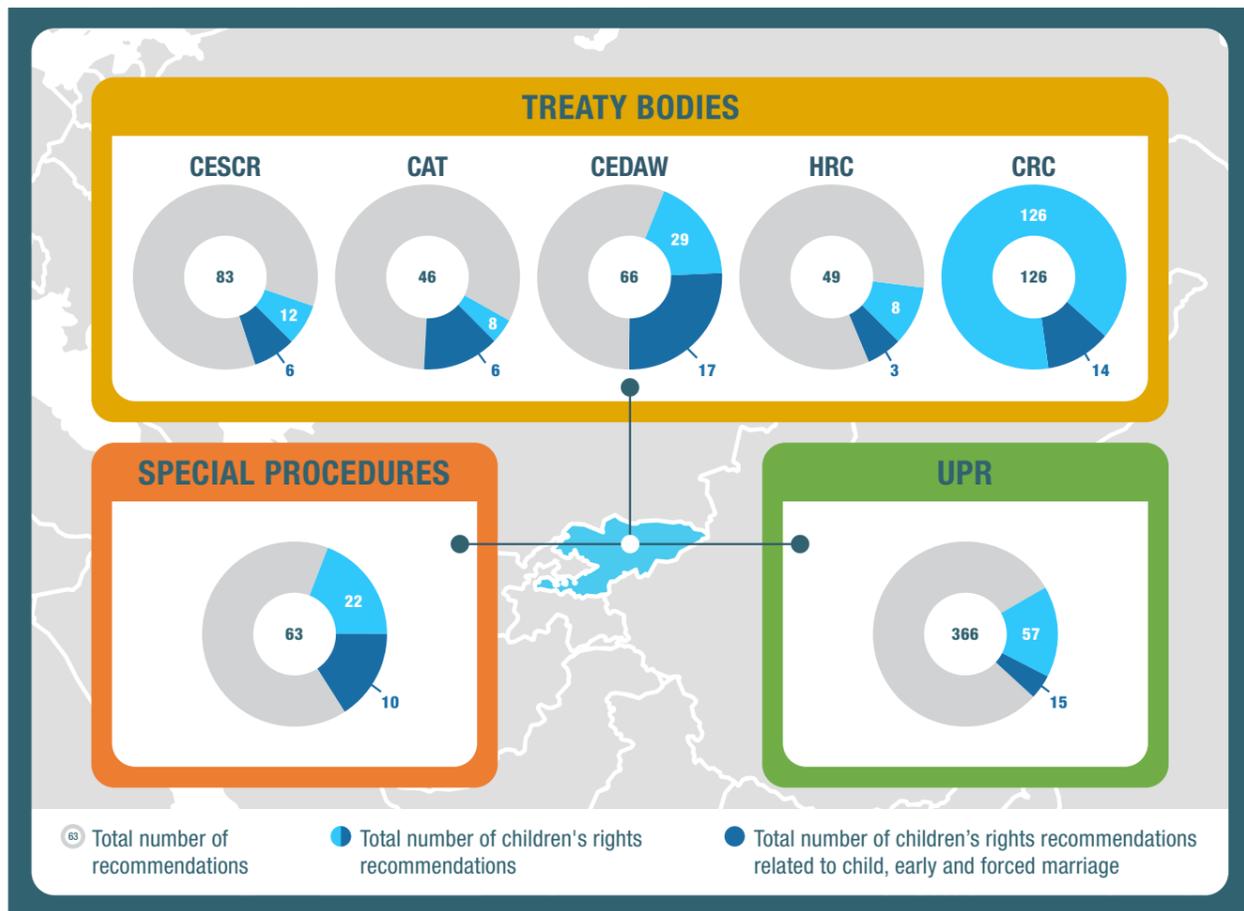


Figure 6. Children's rights recommendations received by Kyrgyzstan, including those focused on 'bride-kidnapping' and CEFM





# SOUTH AFRICA

## Identified subtheme: Child abuse

URG's analysis of children's rights recommendations received by South Africa between 2007-2018 identified a large cluster (i.e. number) of recommendations focused on the problem of physical, sexual and emotional abuse against children.<sup>59</sup> This identification of a primary children's rights concern in South Africa was confirmed by the UNICEF country office.

## Background

High levels of societal violence have long been a critical challenge for South Africa. That includes physical, sexual and emotional violence against children of all ages, and in all settings, including in the home, in the community and in school. A 2012 UNICEF report shows that, in 2011, a total of 50,688 children were victims of violent crimes, including 793 murders and 758 attempted murders.<sup>60</sup> These figures are even more disturbing when one considers the large number of violent crimes against children that no doubt go unreported.

The human rights implications of such high levels of societal violence against children are enormous. Violence against children not only violates a child's right to be free from physical and mental harm, and cruel or degrading treatment, but also has long-term negative consequences for a child's right to physical and mental health, their right to education, etc. In the worst instances, of course, violence against children can violate the most fundamental right of all – the right to life.

Given the scale of the problem of violence against children in South Africa, and its terrible consequences both for the rights of the child and for sustainable development, the UNICEF country office has long been active on the topic. That

work has included leveraging South Africa's international human rights obligations and commitments to press the Government to act, and thereafter to support the elaboration and implementation of correctional policies. Specifically, this has meant feeding information, analysis and ideas into the United Nations human rights mechanisms, and then using any subsequent recommendations from the mechanisms as the basis of a 'road map' of support for the Government, to help it develop the necessary laws, policies and practices to eradicate and prevent violence against children.

## Engagement with the United Nations human rights mechanisms

South Africa has ratified seven of the core international human rights treaties, including the Convention on the Rights of the Child in 1995 and the CAT in 1998. South Africa undertook its periodic reporting under the Convention on the Rights of the Child in 2000 and 2016 (covering the Party's second, third and fourth periodic reports), and under the CAT in 2006, 2018 and 2019. The country maintains a standing invitation to Special Procedures. Since 1996, it has received 13 visits by mandate-holders, including the Special Rapporteur on

Dieu-Merci Matala, 44, holds his daughter, Grace, 7 months, while doing housework at their apartment in Cape Town, South Africa. Dieu-Merci participated in the MenCare Child Protection Programme supported by UNICEF, the National Department of Social Development and Sonke Gender Justice. This programme aims at promoting the equal involvement of men in caregiving while focusing on equitable, nonviolent parenting practices. © UNICEF/UN0315707/Sokol

violence against women (1996 and 2015) and the Special Rapporteur on the sale of children (2002). A large number of other visit requests have not been facilitated, including one by the Special Rapporteur on torture. The country reported under the UPR in 2008, 2012 and 2017.

UNICEF South Africa's engagement with the United Nations human rights system focuses principally on the Committee on the Rights of the Child. In 2016, UNICEF provided an extremely detailed alternative report to the Committee, reflecting the long (16-year) gap between South Africa's first report and its combined second, third and fourth reports. The comprehensiveness and level of detail in the alternative report perhaps helps explain the high level of convergence between the information, analysis and policy proposals provided by UNICEF and the Committee's concluding observations (including recommendations).

These include a mirroring of the high level of prioritization in the UNICEF report given to the subject of violence against children. Indeed, UNICEF makes clear at the very beginning of its report that reducing and preventing such violence is understood to be a national priority by both the State and the United Nations. As a result, violence against children is covered under each of the 'clusters' of children's rights contained in the Committee's final report, and the 'cluster' dedicated to 'violence against children' has the largest number of recommendations (22 in total).

After this opening, the UNICEF alternative report proceeds to present an analysis of the current situation of violence against children in South Africa. In an important example of good practice, it bases that analysis on a detailed assessment of levels of State progress on the implementation (both achievements and shortfalls) of recommendations received from the Committee in 2000. This analysis is fully reflected in the Committee's concluding observations.

Likewise, the policy guidance provided by UNICEF in its alternative report is heavily reflected in the recommendations that were issued by the Committee at the end of South Africa's 2016 review. For example, as advised by UNICEF, the recommendations take a 'holistic approach' to the issue.

At a substantive level, this means they cover a wide range of policy responses covering, *inter alia*: domestic and gender-based violence;<sup>61</sup> harmful traditional practices;<sup>62</sup> corporal punishment;<sup>63</sup> other forms of abuse, neglect, negligent treatment and exploitation;<sup>64</sup> and the specific situation of particularly vulnerable subgroups.<sup>65</sup> The latter include girls; children living with HIV/AIDS; children with disabilities; indigenous children; stateless children; migrant and refugee children; street children; lesbian, gay, bisexual, transgender and intersex children; and children with albinism.

At a procedural level, it means that the Committee's recommendations, mirroring the analysis by UNICEF, call for a holistic approach, including: further progress on the implementation of the legislative and policy measures called for during the previous review cycle;<sup>66</sup> development of policies to prevent violence by raising awareness and addressing root causes such as poverty, alcohol and drug use, and exposure to violence;<sup>67</sup> improving early intervention strategies by, *inter alia*, strengthening the capacity of care workers and family support services,<sup>68</sup> promoting integrated case management<sup>69</sup> and consulting children;<sup>70</sup> and strengthening protection mechanisms by facilitating access to child- and victim-friendly justice, as well as to victim shelters.<sup>71</sup>

While UNICEF South Africa mainly focuses its reporting efforts on the Committee on the Rights of the Child, it also uses alternative reports to other Treaty Bodies (e.g. the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee against Torture) to reinforce its messages. Indeed, many of the proposals presented in the UNICEF alternative reporting under the Committee on the Rights of the Child are explicitly repeated in its alternative reporting under these other treaties (UNICEF acknowledges as much in the reports). This also helped to 'bridge' the reporting gap between South Africa's 2000 and 2016 reviews by the Committee on the Rights of the Child.

Beyond the Treaty Bodies, several United Nations Special Procedures mandates have also addressed the issue of violence against children during their country visits to South Africa. For example, following a 2008 visit, the Special Rapporteur on adequate housing expressed concern at the



A young boy looks to the camera at the Isibindi Safe Park, South Africa. Safe Parks offer educational and counselling support, nutrition and life skills for victims of violence and children living in disadvantaged communities. There are currently over 400 Safe Parks across the country. © UNICEF/South Africa/2012/Scherbrucker

lack of affordable housing and public shelters for victims of domestic abuse. He noted that this shortcoming forces women and children to remain in situations where the abuse may continue. On the more positive side of the ledger, he commended the Government for having established the Saartjie Baartman Centre for Women and Children, an innovative 'one-stop shop' offering a range of services such as safe accommodation, counselling, job-skills training and the provision of legal advice to women and children who experience domestic and/or sexual violence. The Special Rapporteur recommended that the Government replicate this good practice on a larger scale.<sup>72</sup> In another example, following a 2011 country visit, the Special Rapporteur on the human rights of migrants underlined the importance of properly investigating, and providing information and data on, the situation of unaccompanied minors in the country, recalling their acute vulnerability and the high risk of exploitation and abuse.<sup>73</sup> Finally, following a 2015 visit, the Special Rapporteur on violence against women included information, analysis and recommendations on domestic violence, including violence against children.<sup>74</sup>

Interestingly, and again supporting the thesis that the three main United Nations human rights mechanisms and their recommendations are complementary and mutually reinforcing, it appears that the recommendations on violence against children, produced by the Treaty Bodies and Special Procedures, have helped influence and shape the recommendations provided to South Africa under the UPR. For example, the report of the Special Rapporteur on the rights of migrants following his visit in 2015, the report of the Special Rapporteur on violence against women following her visit that same year, and the concluding observations of the Committee on the Elimination of Racial Discrimination following South Africa's 2016 review<sup>75</sup> all highlighted the issues of violence against migrant children, as well as harmful traditional practices and gender-based violence. This information was subsequently included in the United Nations compilation report ahead of South Africa's most recent UPR review and resulted in the issues being included in a number of UPR recommendations to the State.

## Implementation and impact

South Africa's history of apartheid and the related struggle for human rights makes it particularly amenable to engagement with the United Nations human rights mechanisms and the receipt of recommendations. Moreover, the Constitution of South Africa has notably strong provisions and safeguards on democracy and human rights. Against this background, human rights, including children's rights, have always been afforded a high degree of importance in post-apartheid South Africa, especially after the State's ratification of the Convention on the Rights of the Child in 1995 (one year after the establishment of democratic government under the new Constitution). One important sign of this is that children's rights were promoted and protected by a dedicated Office on the Rights of the Child, in the Office of the President, rather than by a department in a line ministry.

This placing of responsibility for children's rights under the Office of the President had, in principle, very positive implications for the Government's capacity (in terms of both political will and cross-government coordination) to implement recommendations pertaining to children's rights that it received from international or African human rights mechanisms. Indeed, this point, and the related high-level political commitment South Africa affords to children's rights, was recognized by the Committee on the Rights of the Child during the country's first periodic review in 2000.<sup>76</sup>

At the time of that first review, the South African delegation that appeared before the Committee was headed by a representative of the Office of the President. Moreover, on completion of the review, the Government, led by President Thabo Mbeki, made impressive progress on the implementation of the recommendations received. Unfortunately, thereafter, political commitment to realizing the rights set down in the Convention on the Rights of the Child waned. Sadly, in 2009 the Office on the Rights of the Child was dissolved, and responsibility for reporting and follow-up related to the Convention passed to the Ministry of Women, Children and People with Disabilities. In 2014 it was moved again, this time to the Department of Social Development. An important indicator of this drop in political

commitment to children's rights and to the implementation of the Convention is that South Africa failed to report to the Committee on the Rights of the Child for 16 years (between 2000 and 2016).

Notwithstanding this unpromising political and institutional picture, South Africa's engagement with the United Nations human rights mechanisms, supported by the UNICEF country office, has led to positive results for children's rights in the country. As with all countries, South Africa's reporting–implementation–reporting cycle with Special Procedures, Treaty Bodies and the UPR (engagement with which has become a top priority for the country) presents significant opportunities to provide information on human rights progress, identify areas of achievement and challenge, and receive useful technical guidance (i.e. recommendations) as to how the State might improve compliance in the future.

As noted in the above section, in the case of South Africa's engagement with the Committee on the Rights of the Child (in 2000 and 2016), its reporting, complemented by UNICEF alternative reporting, resulted in the Committee extending ambitious recommendations, including that the Government should elaborate a holistic strategy to combat violence against children. According to the Committee, that strategy should include legal and policy measures covering prevention, early intervention and protection.

These recommendations provided an important 'hook' or 'entry point' for UNICEF to work with the Government of South Africa to assist in the elaboration and application of such a holistic strategy on violence against children. Moreover, as in the case of Kyrgyzstan, UNICEF also worked with parliamentarians (via a memorandum of understanding signed in 2018 with the Research Institute of Parliament) to build their capacity to better oversee the executive and to draw up new legislation.

Providing such support was a centrepiece of UNICEF 2013–2017 and 2017–2021 country programming in South Africa and led to important changes at legislative and policy levels. For example, between 2005 and 2008, South Africa's

Parliament enacted three bills that together provide the very foundation of the country's child protection system – namely, the Children's Act (2005), the Child Justice Act (2008) and the Sexual Offences Act (2007). UNICEF helped with the drafting and implementation of these three pieces of legislation.

UNICEF also provided technical assistance for another important part of the holistic strategy recommended by the Committee on the Rights of the Child: the development of a Child Protection Register. This maintains a record of all cases of child abuse in the country, as well as convictions, and a list of persons found unsuitable to work with children (438 have been identified so far).<sup>77</sup> UNICEF support included capacity-building programmes (e.g. for community care workers, health-care providers and teachers) to ensure that at-risk children would be quickly identified, that incidences of violence would be quickly reported, and that cases would be managed in a manner that prioritized the rights of the children involved.

One area where South Africa, supported by UNICEF, has made particular progress on the implementation of United Nations human rights recommendations on the subject of violence against children is in the protection of particularly vulnerable groups. For example, since 2012 the State has made considerable progress in strengthening the National Association of Child Care Workers (known as *Isibindi*), a community-based organization working to protect vulnerable children, including orphans. This effort, supported by UNICEF (which, *inter alia*, helped secure extra funding for *Isibindi* from the Government and the private sector), has had a significant impact on the protection of children, and on the enjoyment of their human rights. In 2012, *Isibindi* operated from 65 sites in the country, reaching around 100,000 children.<sup>78</sup> By 2018, it operated from over 400 sites and was able to reach more than 400,000 children.<sup>79</sup>

Additionally, in 2020, UNICEF signed a bilateral agreement with the country's NHRI, the South African Human Rights Commission, to jointly monitor the situation of children's rights, investigate abuses and advocate for improved access to protection services (particularly for migrant and foster

children, and children with disabilities). The agreement also includes provisions to ensure that all children – without discrimination and regardless of migratory status – are considered and included in policies and actions responding to COVID-19 and have access to basic services such as health and education.<sup>80</sup>

Other examples of new policies and programmes to better protect vulnerable children include the launch of a communications campaign (including through partnerships with media organizations) to combat gender-based violence by raising awareness about the harmful effects of ‘traditional practices’. UNICEF again contributed to this campaign by leveraging its youth network to shift attitudes about gender-based violence and equality in schools and communities. In a further effort to change attitudes towards violence against children in particularly vulnerable situations, the Government trained traditional leaders in communication techniques to counter discrimination against albinos, lesbian, gay, bisexual, transgender and intersex children, street children and migrant children.

UNICEF is furthermore developing a ‘children’s rights training toolkit’ to train policymakers, civil society representatives, faith-based organizations and municipalities. The toolkit is designed to strengthen children’s rights governance and inform stakeholders as to how to effectively implement the various new laws pertaining to children’s rights.

Finally, UNICEF worked with the Child Witness Institute to ensure that the rights of child victims and witnesses were respected when they appeared before new ‘sexual offences courts’. As a consequence of this work, ‘victim satisfaction’ rates increased from 48 per cent in 2013 to 68 per cent in 2017.<sup>81</sup>

Though cases of violence against children in the country are under-reported, and statistics may be unreliable, it is noteworthy that the latest numbers show instances of violence against children to have decreased markedly, from 50,688 in 2011 to 43,540 in 2018.<sup>82</sup>

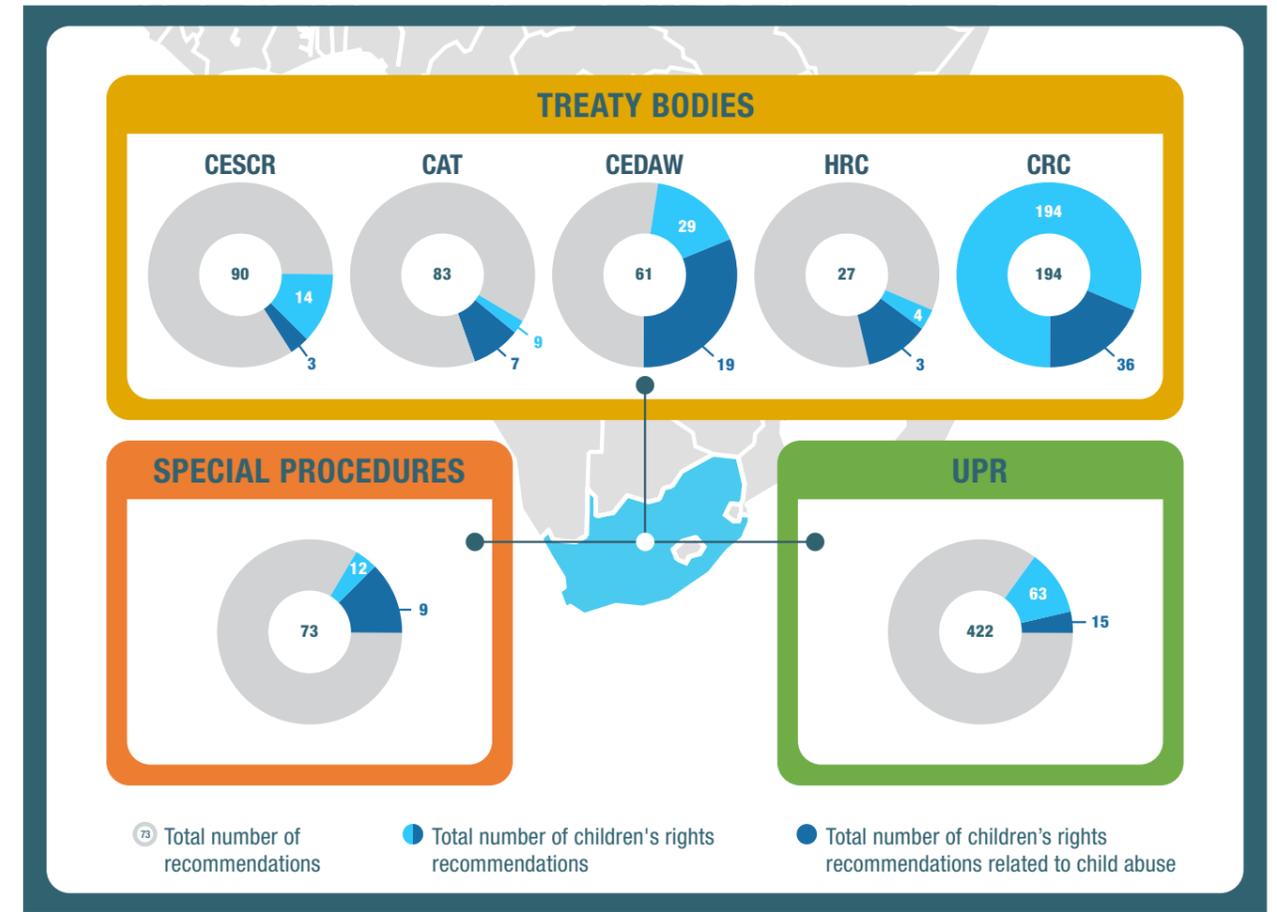


Figure 7. Children’s rights recommendations received by South Africa, including those focused on the physical, sexual and emotional abuse of children



# UNITED KINGDOM

## Identified subtheme: Corporal punishment

URG's analysis of children's rights recommendations received by the United Kingdom between 2008-2019 identified a large cluster (i.e. number) of recommendations focused on the issue of corporal punishment. This identification of a primary children's rights concern in the UK was confirmed by the UNICEF country presence.

## Background

With the exception of Scotland, Wales and Jersey (a Crown Dependency), corporal punishment remains lawful in certain circumstances in the UK (including its Crown Dependencies and British Overseas Territories), including in the home, in some alternative care settings and in day-care and penal institutions. Specifically, the use of such punishment by, for example, parents is considered lawful for the purpose of 'reasonable punishment'. Though exact prosecutorial standards have varied over the past decade, 'reasonable punishment' means punishment that "is transient and trifling and amount[s] to no more than temporary reddening of the skin".<sup>83</sup>

The Committee on the Rights of the Child has repeatedly asserted that this interpretation, and the continued practice of corporal punishment in the UK, is contrary to the State's obligations under the Convention on the Rights of the Child. In its 2007 General Comment on the issue, the Committee argued that corporal punishment breaches States' obligations to protect children from all forms of physical violence (article 19), as well as from cruel, inhuman or degrading treatment or punishment (article 27).<sup>84</sup>

Against this background, the continued use of corporal punishment in the UK has been repeatedly raised by United

Nations Treaty Bodies, and in the context of the UPR.

## Engagement with the United Nations human rights system

The UK is Party to seven of the core international human rights treaties, including the Convention on the Rights of the Child (which it ratified in 1991) and the CAT (which it ratified in 1988). The UK has reported four times to the Committee on the Rights of the Child (in 1995, 2002, 2008 and 2016), and seven times to the Committee against Torture (most recently in 2019). The UK maintains a standing invitation to Special Procedures and has welcomed 22 visits since 1995, though none by mandates directly relevant to the issue of corporal punishment. The UK has completed all three cycles of the UPR (in 2008, 2012 and 2017).

UNICEF maintains a 'national committee' in the UK, rather than a country office. National committees were originally established for the purpose of raising funds in high-income countries, but in time they developed a range of activities, including research and advocacy. Today, UNICEF UK is a legally distinct, independent NGO, accountable to its own

Scottish children outside the Parliament in Edinburgh celebrate World Children's Day 2019 and the Scottish Government's commitment to fully incorporate the Convention on the Rights of the Child into Scots law. @UNICEF/Watt

board. Nevertheless, it works in close partnership with UNICEF via a bilateral cooperation agreement. Since 1999, UNICEF UK has worked extensively with the United Nations human rights mechanisms, especially the Committee on the Rights of the Child, to advocate for and support national improvements in the enjoyment of children's rights.

On the specific issue of corporal punishment, UNICEF UK is part of several NGO coalitions active on the topic. Via those coalitions, it engages with all three main United Nations human rights mechanisms (especially the Treaty Bodies and UPR) to give added weight and impetus to the national campaign to end corporal punishment. For example, UNICEF UK is part of the Global Initiative to End Corporal Punishment (GIECP), which pushes for, and provides technical assistance to help achieve, the prohibition and abolition of the practice of corporal punishment. Notwithstanding, UNICEF UK also engages with the mechanisms in its own right. For example, in 2020 it delivered an individual submission on corporal punishment to the Human Rights Committee.

Although it mainly focuses its efforts on the Committee on the Rights of the Child, UNICEF UK actually engages with a number of different Treaty Bodies, and (increasingly) with the UPR mechanism. According to UNICEF UK, this 'holistic approach' helps bring pressure on the UK Government from multiple different angles, and also helps ensure there is no 'gap' in alternative reporting – i.e. no opportunity is missed to raise the issue with the United Nations mechanisms and thereby with the UK. Furthermore, raising the issue of corporal punishment with different Treaty Bodies allows UNICEF UK and its partners to engage with different UK Government ministries, as well as with different constituent parts of the UK. For example, UNICEF UK has found engagement with the Committee on the Rights of the Child to be particularly useful in the cases of Scotland and Wales, where the devolved administrations are, in general terms, relatively progressive in their stance towards the Convention and its implementation. According to UNICEF UK, this helps explain why the devolved Welsh administration was able to inform the Committee on the Rights of the Child in 2007 of its intention to ban corporal punishment as soon as it has constitutional power to do so.

In particular, UNICEF UK, either on its own or via civil society coalitions, regularly provides detailed analyses of legal developments (e.g. changes in law or new judicial cases) as

well as updates on latest trends (i.e. in the use of corporal punishment in different settings). This has helped ensure that the issue of corporal punishment is often included in the 'lists of issues' provided to the UK prior to Treaty Body reporting. UNICEF UK also provides advice to Treaty Body members on recommendations that could be extended to the UK Government – for example, that all legal defences (e.g. based on 'reasonable punishment') be repealed, and that awareness-raising campaigns be launched to increase public understanding about the harmful effects of the practice on children. Beyond these more 'incremental' recommendations, since 2007, UNICEF UK has systematically asked Treaty Bodies to include the simple recommendation that the UK ban corporal punishment in all settings.

Information and advice provided by UNICEF UK, both in its own right and via civil society coalitions, has had a clear impact on the concluding observations and recommendations generated by the Treaty Bodies. For example, the Committee on the Rights of the Child's concluding observations following the UK's 2016 review repeated, word for word, the suggestions made by the GIECP coalition in its pre-review alternative report. That included recommendations that the UK remove all legal defences to the practice of corporal punishment, and that the State "strengthen its efforts to promote positive and non-violent forms of discipline, and respect for children's equal right to human dignity and physical integrity, with a view to eliminating the general acceptance of the use of corporal punishment in child-rearing".<sup>85</sup>

UNICEF UK has also become increasingly engaged with the UK's reporting–implementation–reporting cycle under the UPR since the establishment of the mechanism in 2006–2007. Indeed, because of the high political importance the UK attaches to the UPR as a State-to-State review mechanism (the UK always sends ministerial-level delegations) and – by extension – to UPR recommendations, the mechanism has become an increasingly important 'entry point' for UNICEF advocacy. With this in mind, over the course of the three cycles of the UPR, UNICEF has steadily increased its engagement: in the first cycle it raised the issue of corporal punishment in its own submissions, as well as through those of its partner organizations, the GIECP and the British Institute for Human Rights; then for the second and third cycles, in addition to these 'UK-sourced' submissions, UNICEF used its global presence to lobby different United Nations Member States



Arnhem Wharf Primary School in London is a Gold Rights Respecting School. The Rights Respecting Schools Award puts children's rights at the heart of schools. UNICEF works with schools in the UK to create safe and inspiring places to learn, where children are respected, their talents are nurtured, and they are able to thrive. ©UNICEF/Dawe

in capitals and via their permanent missions in Geneva to include the issue of corporal punishment, and other pertinent children's rights issues, in their UPR recommendations to the UK. This strategy appears to have been successful: in the UK's second cycle UPR review, 28 of the 137 recommendations it received addressed children's rights concerns, while in the third cycle that number increased to 46 (out of 234). That included three recommendations on corporal punishment in the second cycle, and seven in the third cycle (although all were rejected by the UK).

### Implementation and impact

It is clear from the foregoing that by providing information and counsel into the Treaty Body and UPR mechanisms, UNICEF, together with its partners in UK civil society, has been able to encourage and inform a large number of recommendations on the issue of corporal punishment. Furthermore, by engaging with a range of different mechanisms, it has been able to bring pressure to bear on different parts of the UK Government and State. Although the UK Government has to a large extent resisted this pressure, a point evidenced by its rejection of relevant recommendations during the third UPR cycle, there have been some important steps forward. For example, corporal punishment has been completely banned in Scotland, Wales and the Crown Dependency of Jersey.

In the case of Jersey, in December 2018 a legislative proposal was presented to the Council of Ministers of the States of Jersey asking it to repeal all legislation enabling the practice of corporal punishment, as well as to provide awareness-raising and training measures to ensure its effective implementation. An explanatory note attached to the draft Bill, explaining its justification and objectives, lent heavily on the fact that the UK is Party to the Convention on the Rights of the Child and the CAT, and echoed a number of pertinent recommendations from the relevant Treaty Bodies.<sup>86</sup> On 15 January 2019 the legislation was adopted, thereby formally repealing the defence of 'reasonable punishment'.

Regarding Wales, the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act became law on 20 March 2020, thereby banning corporal punishment in all settings. As was the case with Jersey and Scotland (see below), the explanatory memorandum attached to the Bill directly cited the UK's obligations under relevant human rights

treaties, and relevant recommendations by the Committee on the Rights of the Child and the CEDAW Committee.<sup>87</sup> These references reflect the key role UNICEF UK played in advocating for the Bill, using the concluding observations of United Nations Treaty Bodies. To support this advocacy effort, in 2018, UNICEF UK undertook a public consultation with 1,157 children in Wales, 64 per cent of whom said they thought the law should change and corporal punishment be banned.<sup>88</sup> The results of the survey were included in the explanatory memorandum.<sup>89</sup>

Another important result of the work done by UNICEF, among others, to leverage the United Nations human rights system to secure the abolition of corporal punishment has come in Scotland. In September 2018 a legislative Bill was introduced before the Scottish Parliament to abolish the legal defence of 'reasonable chastisement'. Again, the explanatory memorandum attached to the Bill explicitly referred to relevant recommendations (to the UK) from the Committee on the Rights of the Child, as well as of the Human Rights Committee (the Treaty Body that monitors compliance with the International Covenant on Civil and Political Rights).<sup>90</sup> The document also cited a study by UNICEF UK showing the disproportionate impacts of corporal punishment on children with disabilities.<sup>91</sup> Parliament eventually passed the Bill on 3 October 2019, and corporal punishment was thus made unlawful in all settings throughout Scotland.

Due to the recent adoption of these legislative Acts, there are no data available on their impacts on incidences of corporal punishment or on children's rights more generally. Notwithstanding, it is reasonable to assume that the changes in law will have a significant impact.<sup>92</sup> It is furthermore reasonable to assume that such shifts in law and perception in Scotland and Wales will eventually influence English politicians and, ultimately, the position of the UK Government and UK Parliament.

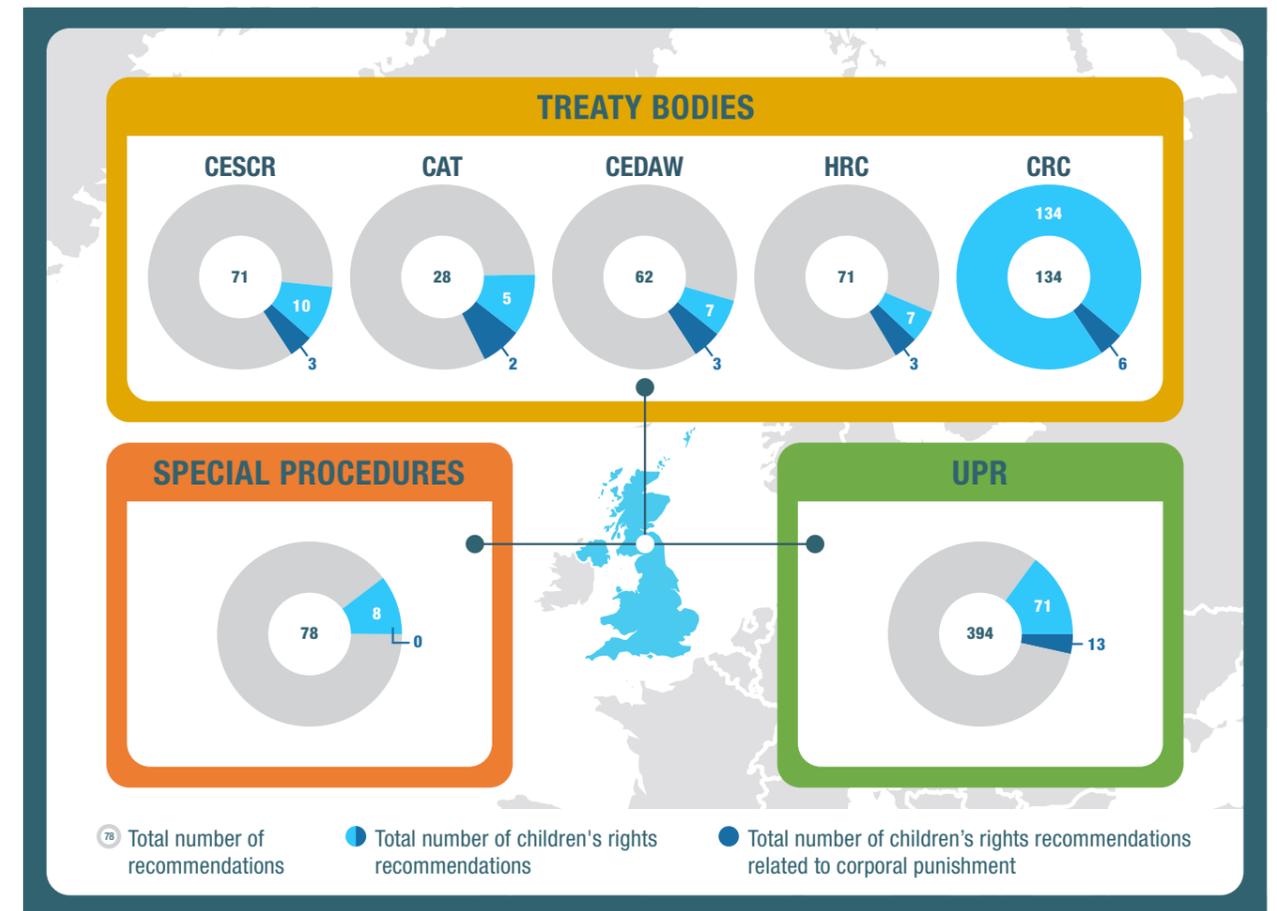


Figure 8. Children's rights recommendations received by the United Kingdom, including those focused on the issue of corporal punishment



# MONGOLIA

## Identified subtheme: Air pollution

URG's analysis of children's rights recommendations received by Mongolia between 2008-2018 identified a large cluster (i.e. number) of recommendations focused on the issue of air pollution and its impacts on children's rights (e.g. the right to health). This identification of a primary children's rights concern in Mongolia was confirmed by the UNICEF country presence.

## Background

Rapid urbanization in Mongolia has resulted in a significant increase in unplanned settlements (known as *gers*), including around the capital, Ulaanbaatar. Those living in *gers* rely on burning coal in 'low-pressure boilers' to keep warm, especially during the cold winter months, with the result that Ulaanbaatar has had some of the highest air pollution levels in the world.<sup>93</sup> A recent World Health Organization policy brief found that 80 per cent of Ulaanbaatar's air pollution in winter months is caused by the burning of raw coal in *ger* households.<sup>94</sup> Such high levels of air pollution – in some cases up to 133 times the recommended daily average concentration – have terrible consequences for public health, including maternal and child health.<sup>95</sup>

The United Nations has been working with Mongolia for over 10 years to address the growing problem of air pollution, and to better protect the country's urban populations (including in *gers*). In this wider context, UNICEF's work in Mongolia has centred on bringing a children's rights perspective to the problem and to discussions on possible policy responses. UNICEF studies have shown that air pollution in Mongolia is having a devastating impact on children's health. For example, one of the health impacts of burning raw coal and related air pollution is pneumonia, which has become the second most common cause of under-five mortality in the country

(for example, it killed 435 children in 2015).<sup>96</sup> Such impacts have significant negative implications for the enjoyment of children's rights in Mongolia, including, most obviously, the right to life and the right to the highest standard of physical and mental health, but also other rights such as the right to education (because sick children cannot go to school).<sup>97</sup>

## Engagement with the United Nations human rights mechanisms

Mongolia is Party to nine core human rights treaties, including the Convention on the Rights of the Child (ratified in 1990), the Convention on Economic, Social and Cultural Rights (1974) and the Convention on the Elimination of Discrimination against Women (1981). It has reported four times to the Committee on the Rights of the Child (in 1996, 2000, 2010 and 2017), five times to the Committee on Economic, Social and Cultural Rights (most recently in 2019) and seven times to the CEDAW Committee (most recently in March 2020). Mongolia maintains a standing invitation to Special Procedures and has facilitated/completed all nine visit requests, including from the Special Rapporteur on education (2009), the Special Rapporteur on extreme

A boy waits for his bus to a local school in Songinokhairkhan district, Mongolia, where the air pollution level is dangerously high. 2017.  
© UNICEF/UN0154526/Batbaatar

poverty (2012), the Special Rapporteur on human rights and the environment (2017) and the Special Rapporteur on water and sanitation (2018). The country has reported twice under the UPR, in 2010 and 2015, and is due to report for a third time in 2020.

As a result of Mongolia's engagement with, and reporting to, these mechanisms, the United Nations human rights machinery has repeatedly raised concerns about the effects of air pollution on human rights in the country. For example, following his visit to Mongolia in 2017, the Special Rapporteur on human rights and the environment reported: "Perhaps the most pressing environmental challenge in Mongolia is air pollution. Levels of fine particulate matter (PM<sub>2.5</sub>) in the ambient air of Ulaanbaatar average nearly 70 µg/m<sup>3</sup> on an annual basis, which is higher than Mongolian air quality standards (25 µg/m<sup>3</sup>) and far higher than World Health Organization (WHO) guidelines (10 µg/m<sup>3</sup>). Other pollutants, such as sulphur dioxide and nitrogen oxides, are also at levels that exceed domestic and international standards [...] Exposure to such high levels of air pollution interferes with the human rights to life and health because it can cause respiratory and cardiopulmonary diseases that lead to premature mortality. It has been estimated that as many as 10 per cent of the deaths of adults over thirty years old in Ulaanbaatar, and 4 per cent of such deaths throughout the country, may be attributed to ambient air pollution."<sup>98</sup>

However, for many years the analyses and recommendations of the mechanisms did not take account of the particular impacts of air pollution on children. For example, neither the 2008 concluding observations of the CEDAW Committee nor the 2015 concluding observations of the Committee on Economic, Social and Cultural Rights mentioned the impacts of air pollution/environmental degradation on children's rights.<sup>99</sup> That started to change in 2015, when the UNICEF country office in Mongolia began integrating a children's rights perspective into Mongolia's reporting to the mechanisms – especially to the Committee on the Rights of the Child.

For example, in its alternative report ahead of Mongolia's 2017 review before the Committee, UNICEF called for child-specific measures to help tackle air pollution, and framed the issue not only as a health issue but as a rights issue. UNICEF emphasized the need for action at multiple levels, including short-term policies designed to mitigate the devastating health impacts on children, medium-term efforts to build

technical expertise and strengthen monitoring capacity in Mongolia, and longer-term regulatory responses to promote sustainable resource management.

As a result, the Committee's 2017 concluding observations almost exactly mirror the UNICEF prognosis and policy guidance. In them, the Committee expressed deep concern at the impacts of air pollution on children's right to health and recommended that Mongolia adopt exactly the same multi-tiered approach suggested in the UNICEF submission. In terms of specific actions, the Treaty Body called on the State to provide vulnerable population groups with high-efficiency particulate air filters, build local-level technical knowledge and capacity to monitor and regulate air pollutant levels, and expand the availability of affordable alternatives to coal.<sup>100</sup>

Furthermore, UNICEF national and international advocacy seems to have contributed (alongside other United Nations interventions – e.g. by the Special Rapporteur on human rights and the environment) to a significant shift in perception and position on the part of the Mongolian Government. As an illustration of this shift, in its response to the Committee's final question in its list of issues (i.e. additional information requested by the Committee following its consideration of the State's written report ahead of the review in Geneva), the Mongolian delegation recognized that, "there is a serious violation of child's, mother's and Mongolian peoples' right to live in a safe and healthy environment because of pollution".<sup>101</sup>

Importantly, and again repeating a phenomenon witnessed with the other case studies analysed for this report, the engagement of the Government and UNICEF with the Committee on the Rights of the Child appears to have initiated, or been part of, a positive 'feedback loop' with the other United Nations human rights mechanisms. For example, as noted above, shortly after Mongolia's appearance before the Committee on the Rights of the Child, the country welcomed a visit by the Special Rapporteur on human rights and the environment (September 2017). In the mandate-holder's report following the mission, presented to the Human Rights Council in June 2018, he explicitly referred to the Treaty Body's concluding observations, including the recommendation that the State pay particular attention to the negative effects of air pollution on children's health when developing its legislative and policy responses.<sup>102</sup> In his recommendations, the mandate-holder also echoed many of the Committee's recommendations, including a call for the



A first-grade student walks several kilometres to her home after school in the district of Altai, in Khovd Province, Mongolia. A mountain range rises in front of her. © UNICEF/UNI82273/Cullen

government to encourage a shift from coal to renewable energy sources in the *ger* districts of the capital.<sup>103</sup>

## Implementation and impact

As noted in the preceding section, one consequence of Mongolia's engagement with the United Nations human rights mechanisms over the past five years has been to convince the Government itself of the importance – from a human rights perspective – of tackling air pollution and, in that context, of paying particular attention to the vulnerabilities and rights of children.

This has meant, in turn, that the State has been particularly proactive in implementing relevant recommendations it has received from the Treaty Bodies and the Special Procedures. For example, at an institutional level, in 2017, Mongolia established a Working Group on children's rights to follow up on the recommendations received from the Committee on the Rights of the Child. This included representatives of the Ministries of Justice, Finance, Labour and Social Protection, Health and Education, as well as of the National Authority for Family, Child and Youth Development. The Working Group in turn elaborated a National Programme on Child Development and Protection – an action plan designed to take forward many of the recommendations received from the United Nations. Also in 2017, the Government adopted a National Programme on the Reduction of Air and Environmental Pollution, which again incorporated and sought to implement relevant United Nations recommendations. As part of this programme, and in line with the recommendations of both Treaty Bodies and Special Procedures, the Government began to provide air purifiers to kindergartens and health-care centres, and distributed high-efficiency particulate air filters for free as part of prenatal packs given to expectant mothers.<sup>104</sup>

These and other implementation measures were supported by the UNICEF country office, usually in collaboration with other parts of the UNCT. For UNICEF, the recommendations provided by the Committee on the Rights of the Child and the Special Rapporteur on human rights and the environment provided the basic foundation of its 2017–2021 country programming framework for Mongolia – negotiated and agreed with the Government – called 'Child survival and development'. As the document itself acknowledges, the

programme, which has an implementing budget of US\$8.7 million, has a particular focus on "addressing the devastating impact of air pollution on child health".<sup>105</sup> This priority goal, and relevant recommendations from the Committee on the Rights of the Child and the Special Rapporteur, were also integrated into the wider UNCT's UNSDCF (formerly known as UNDAF), especially in the UNSDCF's first two 'outcome areas' – namely, "promoting inclusive growth and sustainable management of natural resources" and "enhancing social protection and utilization of quality and equitable social services".<sup>106</sup>

Beyond the UNCT, other international development partners have also worked to support Mongolia with the implementation of United Nations human rights recommendations on air pollution. For example, in early 2018, as part of a project funded by the Swiss Agency for Development Cooperation (SDC), Mongolia's National Centre for Public Health and UNICEF produced a report entitled 'Mongolia's Air Pollution Crisis: A call to action to protect children's health'.<sup>107</sup> The report provided evidence of the "child health crisis" caused by air pollution in Mongolia, especially in Ulaanbaatar, which puts "every child and pregnancy at risk". Those risks, it said, "include stillbirth, preterm birth, lower birth weight, pneumonia, bronchitis, asthma, and death". Based on this evidence, the report proposes a series of legislative and policy measures to be taken by the Government, with United Nations support. Importantly, the report also set out a cost-benefit analysis to show the economic advantages that would be accrued by adopting a preventative approach to air pollution and child health. SDC also supported Mongolia to strengthen the capacity of health workers to better treat air quality-related diseases.

UNICEF and other international partners have also worked closely with the Government to develop communication strategies to raise public awareness about the health consequences of air pollution, especially for children. For example, over recent years it has organized a series of events and youth engagement initiatives, and has produced and disseminated child-focused audiovisual content. As part of the youth engagement part of this strategy, UNICEF partnered with the Scout Association of Mongolia to mobilize adolescents in air pollution monitoring across 20 different schools. According to the UNICEF 2018 annual report, this communication drive reached over 1 million people.<sup>108</sup>

Likewise, Mongolia, with UNICEF support, produced a range of materials to inform families about steps they can take to reduce children's exposure to air pollution and to protect their rights. The materials reached over 20,000 households across the country. Moreover, to mark World Children's Day in 2018, UNICEF produced two videos: the first calling for nationwide action to fight air pollution, and the second showing the effects of air pollution on pregnant women and on the bodies and brains of children. The two videos reached around 100,000 and 1.5 million people, respectively.<sup>109</sup> Finally, UNICEF also engaged international media in its efforts to draw attention to the problem of air pollution. This resulted, *inter alia*, in an important article in *Time* magazine and an episode of Channel 4's (UK) 'Unreported World' series being devoted to the subject. The episode, entitled *Dying to breathe – Mongolia's polluted air*,<sup>110</sup> was carried by television

channels around the world and went viral on social media.

Though many of the implementing measures outlined above happened only recently, making it difficult to measure their impact on children's rights, there are encouraging early signs of progress nonetheless. For example, the Government's 2018 decision to ban raw coal and replace it with refined coal has already had a significant impact on air pollution levels in the country, especially in the *gers* of Ulaanbaatar.

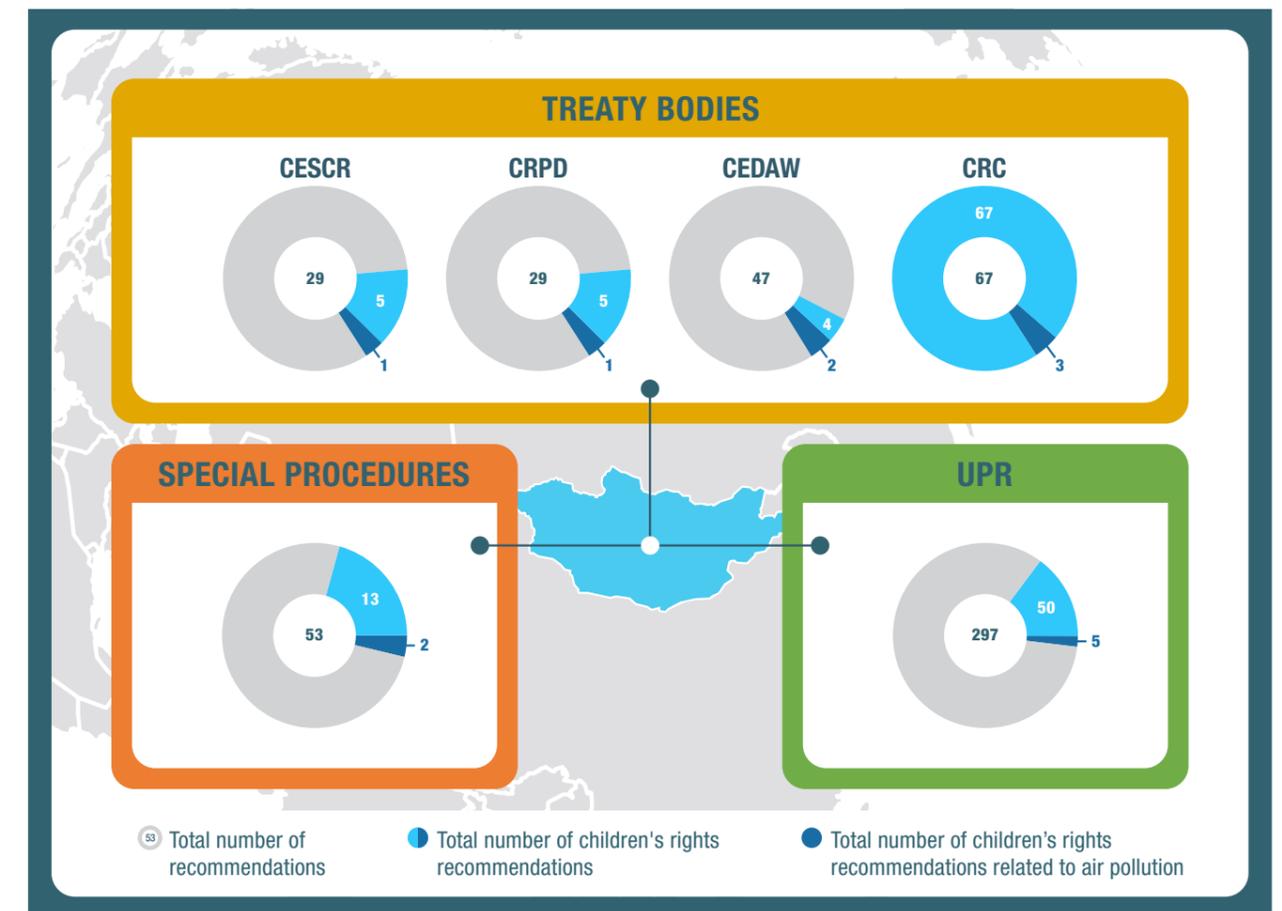


Figure 9. Children's rights recommendations received by Mongolia, including those focused on the issue of air pollution



# URUGUAY

## Identified subtheme: Inequality and the right to education

URG's analysis of children's rights recommendations received by Uruguay between 2007-2019 identified a large cluster (i.e. number) of recommendations focused on the issue of unequal access to the right to education. This identification of a primary children's rights concern in Uruguay was confirmed by the UNICEF country office.

## Background

Over the past two decades, Uruguay has experienced impressive levels of economic growth. In 2013, this led to its reclassification by the World Bank as a high-income country. However, the impact of this growth on socio-economic development has not been fully equitable. Such inequality has had an impact on the enjoyment of social rights, including the right to a quality education.

Uruguay has a very high school enrollment rate. Education is compulsory between the ages of 4 and 17 since 2008. Practically all children complete primary education (98%) and enter secondary education, and the majority continue studying until they are 17 years old (80%). However, Uruguay has one of the lowest secondary school graduation rates in Latin America (in 2018, only 72 per cent of 19 year olds completed compulsory education, while 58 per cent left the education system without finishing high school).<sup>111</sup> This is largely down to the high dropout rates of students from lower-income families – particularly students from Afro-descendant families. In addition, children with disabilities face significant obstacles to the enjoyment of the right to education, due to the lack of inclusive educational policies

and the State's determination to maintain special schools for children with disabilities.

Against this background, education, as an inclusive right and as part of the sustainable development principle of 'leaving no one behind', has long been a priority for the State and the UNCT. As part of that prioritization, the Government of Uruguay has been notably open to leveraging its obligations under the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights to promote the right to quality education without discrimination, and to use its engagement with the three main United Nations human rights mechanisms to drive and direct progress. This approach, supported by the UNCT, including UNICEF, is particularly powerful in Uruguay because of the Government's commitment to human rights and its significant institutional capacity, aided by its NMIRF, which allows it to efficiently implement and report on recommendations delivered by the United Nations mechanisms.

Marla de los Angeles, 17, in her second pregnancy, holds her 2-year-old son, Bruno, in their home in an impoverished area of Ciudad del Plata, San José Department, Uruguay. The family participates in Uruguay Crece Contigo (Uruguay Grows with You), a UNICEF-supported national early childhood development programme aimed at ensuring universal access to a complete set of services for children under 4 years of age, and for their families, with a special focus on the most vulnerable children. © UNICEF/UNI144405/Pirozzi

## Engagement with the United Nations human rights mechanisms

Uruguay is Party to the nine core human rights treaties, including the Convention on the Rights of the Child (ratified in 1990), the Convention on Economic, Social and Cultural Rights (1970), the Convention on the Elimination of Discrimination against Women (1981) and CRPD (2009). It reports regularly (and usually on time) under those treaties, providing the Treaty Bodies and United Nations entities, including UNICEF, with numerous opportunities to review and influence relevant national laws, policies and practices. Uruguay maintains a standing invitation to Special Procedures and has welcomed seven visits since 2009. The State has reported and sent high-level delegations (ministerial level) to the UPR Working Group on three occasions: in 2009, 2014 and 2019.

Uruguay's education policies, including those aimed at reducing discrimination and inequality, have been heavily influenced by its engagement with the Treaty Bodies, especially the Committee on the Rights of the Child and, to a slightly lesser extent, through its engagement with the UPR.

Regarding its engagement with the Treaty Bodies, Uruguay has raised the issue of unequal access to the right to education in each of its most recent periodic reports under the Convention on the Rights of the Child, the Convention on the Elimination of Discrimination against Women, CERD and CRPD. For example, in its 2013 report under the Convention on the Rights of the Child, Uruguay recognized that a "major shortcoming during the reporting period is in the field of education. While progress has been made at the pre-school level (primarily in terms of access to the system), repeat rates are still high in the public schools (although the rate is falling), and secondary schools face serious challenges, principally in terms of student attendance",<sup>112</sup> while in its 2015 report under the Convention on the Elimination of Discrimination against Women, the State expressed its commitment to "address various issues from a gender perspective, to provide conceptual and methodological tools for work in schools".<sup>113</sup>

UNICEF, together with the wider UNCT in Uruguay, has also made significant use of Uruguay's reporting-implementation-reporting cycle with the Treaty Bodies to drive on-the-ground change in the country, including in the context of equality,

non-discrimination and the right to education. As with the other case studies presented in this report, it has done so by feeding information, analysis and policy proposals into the Treaty Bodies via its own or wider United Nations alternative reports, and then by working with the State to support the implementation of relevant recommendations delivered by the committees.

Data analysed for this report shows that United Nations engagement with the Treaty Bodies has heavily influenced Uruguay's periodic reviews before the different committees and has had a strong impact on the committee's conclusions and recommendations.

For example, the UNICEF assessment of the situation of discrimination in the education sector in Uruguay, provided ahead of the State's 2007 review by the Committee on the Rights of the Child, was fully reflected in the Committee's concluding observations, while UNICEF policy ideas and proposals were clearly reflected in the Committee's final recommendations. These included UNICEF proposals, for example, for Uruguay to allocate more resources to the education sector,<sup>114</sup> introduce affirmative action policies targeting vulnerable groups,<sup>115</sup> improve teacher-pupil ratios<sup>116</sup> and develop policies to address secondary school dropout rates.<sup>117</sup> Similarly, suggestions presented in the UNICEF 2014 alternative report to the same Committee were all eventually taken up in the concluding observations. These included proposals to increase the availability of free or affordable early childhood care and education,<sup>118</sup> create more training opportunities for teachers<sup>119</sup> and ensure better participation of children in defining policies in the field of education.<sup>120</sup>

A similar pattern of influence and impact is discernible with other committees. Here, rather than submit its own alternative report, UNICEF has fed its analyses and ideas into joint United Nations alternative reports to, *inter alia*, the CEDAW Committee, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of Persons with Disabilities – with positive results.

For example, the United Nations system's 2015 alternative report to the CEDAW Committee drew attention to the particular barriers to a quality education faced by women and girls and suggested a number of possible remedial actions. These included providing improved sexual and



Milena, 5, is writing her name during a preschool class in the rural public school of Las Brujas, Canelones, Uruguay. ©UNICEF/UY2013/Pirozzi

reproductive health education, and better access to childcare services to allow young mothers to return to education. All these policy proposals were eventually included in the Committee's recommendations to Uruguay.<sup>121</sup> In a similar vein, partly inspired by UNICEF, the United Nations 2011 alternative report to the Committee on the Elimination of Racial Discrimination presented comprehensive information on discrimination faced by people of African descent in the context of the right to education, and made important proposals to reduce the high school dropout rate of this population group. Those proposals included, for example, that the State, supported by international partners, launch an information campaign targeting this group to show the importance of a good education, and that the State develop incentive schemes to encourage parents to keep their children in school. In almost all cases, such analyses and proposals were fully reflected in the Committee's concluding observations/recommendations to Uruguay.<sup>122</sup>

Uruguay's reporting-implementation-reporting cycles with different Treaty Bodies have also provided an important opportunity for UNICEF, together with other parts of the UNCT, to raise the issue of discrimination faced by persons with disabilities. The United Nations alternative reports to the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities, in 2014 and 2015 respectively, both raised this challenge, and both offered similarly detailed policy ideas for how Uruguay could improve access to education. As a result, in their final concluding observations, both Committees provided the State party with similar – and strong – recommendations. They included calls for Uruguay to provide training to teachers on how to better support children with learning difficulties,<sup>123</sup> undertake awareness-raising campaigns to combat stigmatization and prejudice against children with disabilities,<sup>124</sup> and increase resources for schools so that they might develop inclusive education policies (e.g. by having teaching materials written in Braille or by delivering lessons using sign language).<sup>125</sup>

These case studies show once again the importance, for organizations such as UNICEF, of engaging with *all relevant* Treaty Bodies, rather than just, for example, the Committee on the Rights of the Child. Just as the operations and recommendations delivered by the different Treaty Bodies are complementary and mutually reinforcing, so are the different UNICEF/United Nations submissions to those Treaty Bodies. Moreover, by engaging with all relevant

committees, UNICEF is able to ensure that there are no gaps in reporting and that Uruguay receives a steady stream of recommendations to strengthen children's rights, including in the education sector. All of this requires a high degree of coordination across UNCTs – something that is helped in the case of Uruguay by the fact that the Country Team includes a Human Rights Advisor, and by the fact that Uruguay was a pilot country for the 'One UN' initiative.

A further good practice revealed by UNICEF Uruguay's engagement with the above-mentioned Treaty Bodies relates to how to leverage 'lists of issues prior to reporting' (LOIPR). Under the streamlined treaty reporting procedure introduced over the past 10 years, rather than receiving long, all-encompassing State reports ahead of each review, Treaty Bodies now use previous concluding observations, together with any alternative reports received, to compile 'lists of issues' and submit these to the State ahead of its review – to help guide its reporting (which, as a consequence, is more focused) and help frame the dialogue between committee members and government representatives. In 2014, for example, UNICEF used this procedure to encourage the Committee on the Rights of the Child to ask the State about measures taken to reduce dropout rates and promote inclusive education for children with disabilities.

Uruguay's political commitment to the UPR mechanism has also presented important opportunities for the UNCT, including UNICEF, to use alternative reports (in the context of UPR, known as 'United Nations system reports') to the UPR Working Group as an important means of generating useful State-to-State recommendations. For example, the growing push by UNICEF Uruguay to focus on inclusive education policies, including for children with disabilities, was duly reflected in the United Nations system's report ahead of Uruguay's third cycle review in 2019.<sup>126</sup>

Moreover, because States-under-review in the UPR are expected, when compiling their own national UPR reports, to consult widely, including with civil society, it has been possible for UNICEF, which maintains strong relationships with children's rights NGOs in the country, to also influence Uruguay's own submission to the UPR Working Group. This has had particularly encouraging results in Uruguay. For example, in preparation for its national report ahead of its third cycle review, Uruguay's NMIRF conducted extensive civil society consultations. As a consequence, the final



Adrián, 5, paints pictures of the sun during a preschool class in the rural public school of Las Brujas, Canelones, Uruguay. 99.4% of children aged between 6 and 12 years are in the country's education system. 1,132 of Uruguay's 2,060 primary schools are rural, catering to just 6.1% of the child population. The fact that rural schools across the country are more than half the total number of primary school facilities is a public policy that significantly contributes to a high rate of school coverage and progress in fulfilling the right to education. UNICEF works jointly with the Uruguayan education authorities to design policies that contribute to improving learning achievements and increasing graduation rates in secondary schools, thus reducing social gaps. © UNICEF/UY2013/Pirozzi

national report makes no fewer than 77 references to the Government's education policies, including from an equality and non-discrimination angle.<sup>127</sup>

As a result of these interventions by UNICEF, the wider United Nations and Uruguayan civil society, in 2019 Uruguay received 32 separate recommendations on the right to education, including from an equality and non-discrimination perspective. Several of those recommendations encouraged the State to adopt more inclusive education policies. For example, Malaysia recommended that the State "allocate an adequate budget to relevant national mechanisms on children's affairs, particularly to further advance inclusive education for children with disabilities".<sup>128</sup>

Finally, the case of Uruguay again shows how the different United Nations human rights mechanisms complement and reinforce each other, and how United Nations entities can use that fact to shape and support human rights reforms at national level. It was notable in 2019 that many of the UPR recommendations received by Uruguay were drafted (by reviewing States) based on earlier Treaty Body recommendations. For example, echoing the United Nations 2015 alternative report under the Convention on the Elimination of Discrimination against Women, and the Committee's concluding observations,<sup>129</sup> a number of the recommendations to Uruguay during its 2019 UPR focused on preventing early pregnancy and facilitating access to childcare services to allow women and girls to continue to enjoy the right to education.<sup>130</sup>

## Implementation and impact

There is considerable evidence that many of the recommendations received by Uruguay on the issue of equal access to the right to education were at least partially implemented by the State. This rate of implementation is down to a number of factors, including Uruguay's commitment to human rights and its strong level of cooperation with the United Nations human rights system, and because it recently established an NMIRF, which allows for more efficient coordination of implementing actions and reporting. But it is also due to the strong and consistent level of UNCT/UNICEF engagement with Uruguay's reporting–implementation–reporting cycle under each of the United Nations human rights mechanisms. As we have seen with

this case study, that engagement includes submitting detailed analyses of different aspects of the children's rights situation in the country and providing ideas to inform the recommendations of the United Nations mechanisms. It also includes supporting Uruguay with the implementation of those recommendations, both in its own regard and as part of the UNCT. Regarding the latter, the fact that the Country Team acts as one to integrate the recommendations of the United Nations human rights mechanisms into Uruguay's UNSDCF undoubtedly helps both the State and the United Nations to secure progress on both the improved enjoyment of human rights, including children's rights, and the achievement of the SDGs – 'leaving no one behind'. A further United Nations 'good practice' that has benefited Uruguay in its efforts to implement recommendations and thereby strengthen compliance with its international human rights obligations is country-level follow-up by the United Nations mechanisms, in particular by the Committee on the Rights of the Child. In that regard, in 2017, Jorge Cardona, a member of the Committee, visited Uruguay with the explicit purpose of following up on the implementation of the Committee's 2015 recommendations.

There are numerous examples of Uruguay having implemented recommendations relating to children's rights, especially their rights to education and to non-discrimination. For instance, partly as a result of the receipt of recommendations from the Committee on the Rights of the Child in 2007 and 2015 that called on the State to increase spending in the field of education, and actions taken by the Government to implement those recommendations, public investments in education increased from 3.2 per cent of gross domestic product (GDP) in 2005 to 5 per cent in 2016.<sup>131</sup> In real terms, this equates to more than a doubling of the State's budgetary contribution to education over 11 years. UNICEF has worked with the Government to ensure that this increase is used to support the improved enjoyment of children's rights, including by providing technical assistance in formulating budgetary plans for the education sector.

Those plans were partly informed by relevant recommendations from the United Nations human rights mechanisms. As such, much of the extra money has gone towards hiring more teachers (in line with the 2007 and 2015 recommendations of the Committee on the Rights of the Child to improve pupil–teacher ratios)<sup>132</sup> and to providing them with more training opportunities.<sup>133</sup>

Another example relates to the implementation of recommendations to adopt measures to reduce school dropout rates. This issue has been highlighted by a number of different Treaty Bodies, and from a number of angles (e.g. the CEDAW Committee recommended steps to reduce the dropout rate for girls,<sup>134</sup> while the Committee on the Elimination of Racial Discrimination made recommendations focused on Uruguayan children of African descent).<sup>135</sup> Taken together, the recommendations of these different committees provide a detailed road map of steps to be taken to address this pressing human rights concern, and indeed Uruguay has implemented many of them, including with the support of UNICEF. For instance, based on the Committee on the Rights of the Child's 2007 recommendations on the subject, in 2008 Uruguay decided to make upper-secondary-level education compulsory for all children. Moreover, on the basis of UNICEF research showing that dropout rates are intrinsically linked to repetition rates (i.e. where children have to repeat an academic year), Uruguay supported the introduction of a 'community teacher' programme to assist home-schooling, with the aim of reducing repetition rates in primary schools, especially in the poorest parts of the country. Another important implementing action was the launch, in 2015, of the 'education pathways protection system'. Under this system, the State registers all students enrolled in public education, monitors their progress and supports their development. The system also includes an early warning mechanism to flag students at risk of dropping out. Where children are identified as being at risk, the Government, with UNICEF support, has developed programmes to help the students concerned. The UNICEF 2016–2020 country programme and the UNCT's 2016–2020 UNDAF/UNSDCF include the objective of supporting the Government to help students in 90 per cent of identified cases by 2020 (up from 35 per cent in 2016).<sup>136</sup>

Such implementation actions have had a significant impact on the enjoyment of the right to education in Uruguay. Primary school repetition rates in the third of schools targeted by the programme dropped from nearly 50 per cent in 2010 to only 16 per cent in 2013 (i.e. in only three years).<sup>137</sup> This has in turn contributed to a fall in school dropout rates across the country, especially in more economically disadvantaged areas. For example, the graduation rate from lower-secondary-level education increased from 64 per cent in 2012 to 72 per cent in 2017.<sup>138</sup>

As part of this broader effort, Uruguay has also made significant progress in implementing recommendations focused on the particularly high dropout rates experienced by vulnerable population groups, such as girls and Afro-descendants. For instance, to take forward the Committee on the Elimination of Racial Discrimination's 2011 recommendation that the State work to change mindsets and perceptions among these groups about education and the value of schooling,<sup>139</sup> in 2013 the Government and UNICEF launched a major communications campaign on the subject. This helped reduce dropout rates among Uruguay's three poorest income quintiles (which are disproportionately composed of Afro-descendants) by around 11 per cent.<sup>140</sup> Uruguay has also taken important implementing steps (in line with relevant CEDAW Committee recommendations) to reduce dropout rates among girls, such as making teen pregnancy a health priority, creating childcare services near schools, training teachers in comprehensive sex education and prioritizing young mothers when awarding national scholarship endowments. Partly as a result of these actions, female secondary school enrolment rose from 71 per cent in 2009 to 91 per cent in 2017.<sup>141</sup>

A final area (for the purposes of this study) where the recommendations of the United Nations human rights mechanisms, partly informed by UNICEF data, analysis and proposals, have had a major impact on children's rights in Uruguay relates to the provision of 'inclusive education'. Before 2007 this was not a major area of focus. That began to change based on UNICEF 2007 and 2015 submissions to the Committee on the Rights of the Child, and its 2016 submission to the Committee on the Rights of Persons with Disabilities, which in turn informed important Committee recommendations on the subject.<sup>142</sup>

Beginning in 2014, Uruguay's education authorities, with support from UNICEF, launched an initiative designed to respond to these recommendations and introduce new policies and practices in the country based on the concept of inclusive education. This initiative, known as the Mandela Network, seeks to promote inclusive education through teacher training, programmes to encourage the participation of children with disabilities and their parents in the formulation of education policy, and the development of strategies to promote inclusivity and celebrate diversity in schools. The original goal of the Government of Uruguay, in cooperation with UNICEF, was to have 60 schools participating in the

Mandela Network by 2020. In reality, as of today, 72 are taking part, meaning the initiative has provided training for 250 primary school teachers and has reached more than 18,000 children across the country.<sup>143</sup>

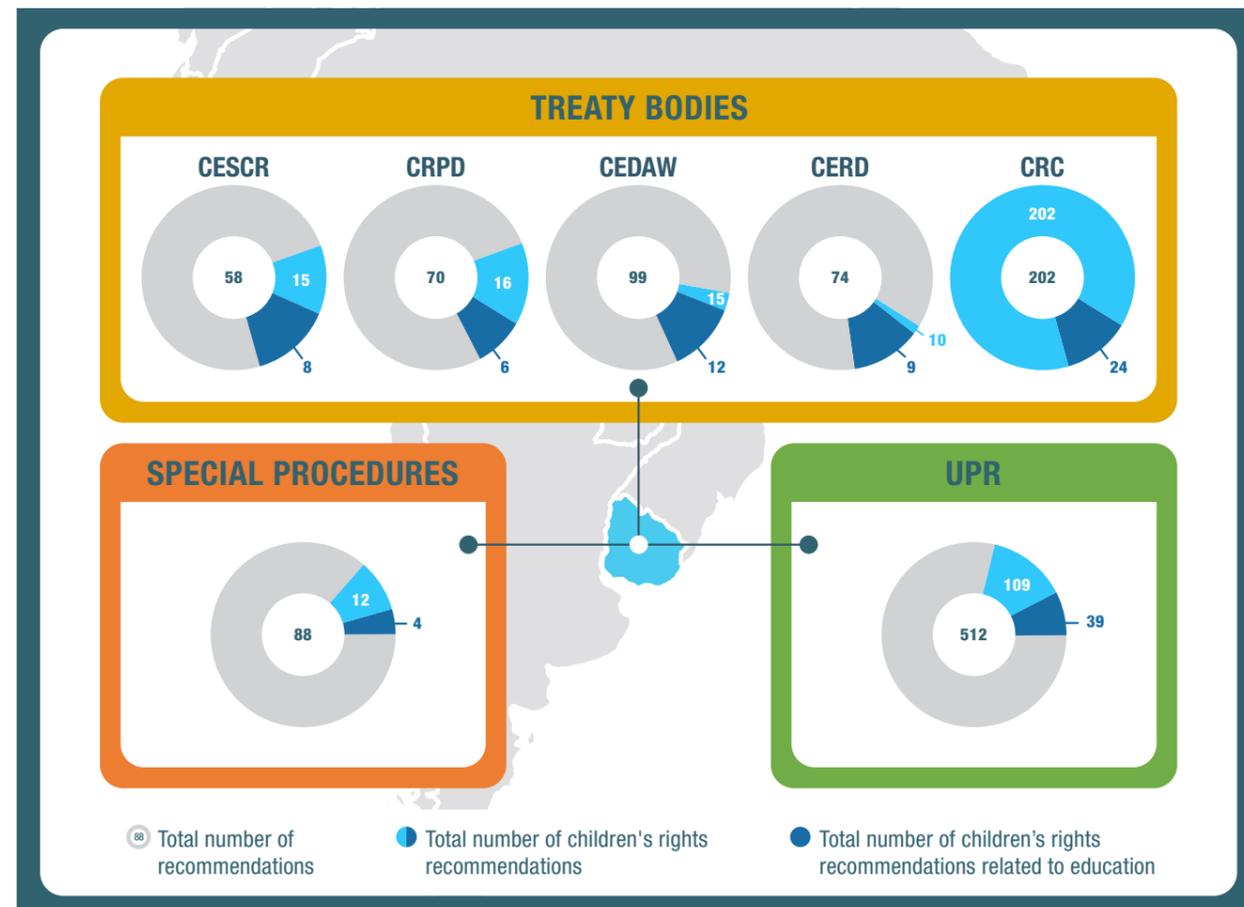


Figure 10. Children's rights recommendations received by Uruguay, including those focused on the issue of unequal access to the right to education

## CONCLUSIONS

The international community has invested enormous time and energy in building the international human rights system over the past 70 years. Today it comprises, *inter alia*, the Universal Declaration of Human Rights, nine core human rights instruments (international treaties), and various international human rights mechanisms – namely, Treaty Bodies, Special Procedures and the UPR. These mechanisms are designed to oversee States' compliance with their international legal obligations, hold duty bearers to account, and recommend domestic legislative and policy reforms to improve future compliance.

For as long as this system has existed, commentators have questioned the degree to which it is capable of, and is succeeding in, securing real-world change – i.e. demonstrable improvements in the on-the-ground enjoyment of human rights. According to this narrative, a significant 'implementation gap' has been allowed to develop between universal values and local realities. As the principal 'duty-bearers', States have been the principal target of criticism in this regard. However, questions have also repeatedly been asked about the degree to which United Nations entities, and United Nations Resident Coordinators and Country Teams, are engaging with States to support domestic implementation and drive forward progress in the domestic enjoyment of human rights. This latter point helps explain why recent United Nations reform efforts (e.g. Ban Ki-moon's 'Human Rights Up Front' policy and the reform of the United Nations development system by Antonio Guterres) have centred on improving the integration of United Nations human rights recommendations into country programming.<sup>144</sup>

While some of this criticism is undoubtedly justified, the stark truth is that – at least at an empirical level – we simply do not know the true degree to which States are implementing the recommendations they receive from the United Nations human rights mechanisms. Nor – by extension – can we say for certain whether the United Nations human rights pillar, supported by the wider United Nations system, is delivering real change on the ground. That is because, with a few exceptions, no one – inside or outside the United Nations – has made a concerted effort to track the results of States' engagement with the three main mechanisms (across each

phase of the reporting–implementation–reporting cycle) or to measure (empirically) its on-the-ground impact on the enjoyment of human rights. Nor has there been a concerted effort to assess the degree to which United Nations entities have been able to leverage States' engagement with the mechanisms (again, across each phase of the cycle) to inform and support domestic human rights progress. Until now.

The six country case studies presented in this report show, based on anecdotal and empirical evidence, that the United Nations human rights compliance mechanisms, complemented by the wider United Nations system, have had and continue to have a clear and measurable impact on the domestic enjoyment of human rights. Each case study presents examples of how States' reports, complemented by UNICEF and wider United Nations alternative reports, have been able to exert significant influence on the analyses and recommendations of the three main human rights mechanisms; how those recommendations have in turn influenced (and in many cases, shaped) States' laws, policies and practices in the fields concerned; how UNICEF and broader UNCTs (sometimes with the support of donor States) have been able to work with States to support domestic implementation as well as the measurement of change/impact; and, finally, how information on progress has been fed back into the reporting–implementation–reporting cycle via periodic national and alternative reports to the mechanisms.

In addition to this overall conclusion, the research presented in this report also reveals a number of other points with implications for the credibility and effectiveness of the United Nations human rights system:

- One of the main reasons human rights change is so difficult to track and measure is that it is usually **'quiet change'** – an information campaign that begins to change public perceptions, a small amendment to national legislation or a training programme for government officials. Notwithstanding, over time, cycle by cycle, all of these small incremental steps combine to create powerful forward momentum. This in turn underscores the importance, for the international community, of building on this study

and taking greater care to track and measure progress on implementation, and to recognize (and even celebrate) success.<sup>145</sup>

- A central reason why the system works is that it is premised on the full (and voluntary) **involvement and engagement of States** – the primary human rights duty-bearers. It is States themselves that sign and ratify the treaties and that submit periodic reports on compliance. Likewise, it is States that submit national reports to, and appear before, the UPR Working Group, and that solicit and welcome visits by Special Rapporteurs. This is important, as it means that States feel ownership of the process, have a stake in its success and are more likely to implement the mechanisms' recommendations than would otherwise be the case. The case of corporal punishment in the UK offers a good example of this point. Here, even though the UK has consistently rejected Treaty Body and UPR recommendations to prohibit such punishment, the fact that the Government takes its treaty obligations and its participation in the UPR so seriously has afforded UNICEF, human rights NGOs and other stakeholders regular opportunities to press for change. Although the UK Government is yet to move on the issue, such consistent advocacy has led to progress in Scotland, Wales and Jersey.

- Linked with the above point, this report also demonstrates the importance of engaging with *all* the United Nations human rights mechanisms (i.e. all relevant committees, Special Procedures mandates and the UPR), as well as the importance of engaging with *each stage* of the reporting–implementation–reporting cycle – on a perpetual basis. Regarding the first point, the case studies show that the different mechanisms are **complementary and mutually reinforcing**. Where States – and UNICEF – engage with a number of different mechanisms on a given subject (e.g. child protection, air quality, inclusive education), those mechanisms tend to share information and analysis, and provide stronger recommendations. For example, Uruguay's commitment to cooperating with the United Nations on human rights extends to all the Treaty Bodies (including those committees monitoring compliance with the Convention on the Rights of the Child, the Convention on the Elimination of Discrimination against Women, CRPD and CERD), all thematic Special Procedures and the UPR. As a result, Uruguay has received a deep and textured array of children's rights recommendations that have informed

education sector reforms, among others. Likewise, by feeding information on bride-kidnapping into a number of different Treaty Bodies, UNICEF Kyrgyzstan has helped ensure that every set of concluding observations issued since 2010 has contained recommendations on the practice. Engaging with *all* the mechanisms also has the added advantage of helping to avoid reporting gaps. For example, in South Africa, UNICEF engagement with different Treaty Bodies helped bridge the children's rights protection gap created by the State's failure to submit any periodic reports to the Committee on the Rights of the Child between 2000 and 2016. On the second point, the numerous examples of impact showcased in this report are built on the consistent engagement of the relevant UNICEF offices with **each stage** of the reporting–implementation–reporting cycle. UNICEF feeds information, analysis and policy proposals into the United Nations mechanisms, works with the State to support the implementation of recommendations, monitors and measures progress (again, usually with the government) and then feeds information on that progress back into the United Nations mechanisms. Moreover, by doing so on an ongoing basis, UNICEF and the mechanisms are able to use each cycle in turn to gradually increase ambition (i.e. encourage an 'incremental approach' to domestic progress). For instance, following a suggestion by UNICEF, in 2010 the Committee on the Rights of the Child recommended that Montenegro include the 'best interests of the child' principle in relevant national legislation,<sup>146</sup> whereas in 2018 the Committee recommended the State party develop procedures and criteria to provide guidance on the proper integration and interpretation of the legislative provision.<sup>147</sup>

- As part of any strategy to engage with, and leverage the complementary power of, all the United Nations mechanisms, this report also contains (i.e. in addition to case studies focused on the influence of Treaty Bodies) a number of important examples of the influence of **Special Procedures and the UPR**. For instance, the 2017 visit of the Special Rapporteur on human rights and the environment to Mongolia served to reinforce the Committee on the Rights of the Child's 2017 concluding observations on air pollution, and together they had a significant impact on the Government's thinking and policy, while in Kyrgyzstan three out of four recent visits by mandate-holders have concluded with recommendations to the Government on bride-kidnapping. Turning to the UPR, almost all the case studies presented in this report show the growing power

and influence of this peer-to-peer mechanism. In the case of the UK, UNICEF sought to leverage the Government's commitment to the UPR by using its offices around the world to encourage States to extend recommendations to the UK on the issue of corporal punishment.

- **Other parts of the United Nations human rights pillar** can also add momentum to efforts to improve domestic compliance in line with international human rights standards. For example, during visits to Kyrgyzstan by the High Commissioner for Human Rights and the Assistant Secretary-General for human rights in 2011 and 2013, respectively, both raised the issue of bride-kidnapping. Their analysis and recommendations were later fed into Kyrgyzstan's 2015 UPR.

- All six case studies show the value of **detailed, fact-based and insightful reporting** to the United Nations mechanisms, on the part of both States and United Nations entities (via alternative reporting). This allows the mechanisms to fully understand the situation in the country concerned and eventually provide useful recommendations. For instance, the Committee on the Rights of the Child's 2010 concluding observations to Montenegro were heavily based on the UNICEF alternative report, and the subsequent recommendations went on to form the basis of important policy shifts in the country. Similarly, a detailed 2016 alternative report from UNICEF to the Committee informed a series of detailed recommendations to South Africa on violence against children. Those recommendations, covering domestic and gender-based violence, harmful 'traditional' practices, corporal punishment, negligence, exploitation and victim support, went on to form the basis of a holistic plan of action to tackle child violence in South Africa – developed by the Government and UNICEF. This included early interventions to address root causes such as poverty and the adoption of three important bills on child protection (in 2005, 2007 and 2008). In Mongolia, the UNICEF 2015 report to the Committee played an important role in shifting perceptions about air pollution – as a rights issue, and specifically a children's rights issue.

- **National civil society** should be widely consulted in the preparation of both State (national) reports and United Nations system reports. This helps develop an accurate and nuanced picture of the human rights situation in the reporting State, and eventually helps the relevant mechanism to formulate appropriate, useful and practicable recommendations. In Uruguay, for example, both the country's NMIRF and

UNICEF have worked closely with human rights NGOs in the development of their reports to Treaty Bodies and to the UPR Working Group. Notwithstanding, it is also important for civil society to maintain and project its own independent voice, via its alternative reports to the human rights mechanisms.

- Each of the case studies demonstrates the importance of **clear, precise and practicable recommendations** to States. Often at the prompting of UNICEF, the Committee on the Rights of the Child has regularly offered detailed policy proposals and ideas. These have then been taken to national level and used by the government, with UNICEF support, as the basis of holistic strategies to address the underlying challenge (i.e. including legislative reform, awareness-raising and educational campaigns, training and capacity-building, and victim support). The cases of Mongolia, South Africa and Uruguay each provide examples of Treaty Bodies providing detailed, holistic and practicable recommendations to States – recommendations that have gone on to form the basis of important national policy shifts. In Mongolia, for instance, the Committee on the Rights of the Child's 2017 concluding observations (echoing UNICEF's alternative report to the Committee) urged the State to take short-term (e.g. distribute air filters to reduce the health impacts of air pollution on children), medium-term (build expertise and monitoring capacity)<sup>148</sup> and long-term (regulatory reform, sustainable resource management) steps to protect children's rights.<sup>149</sup> Mongolia has implemented each of those proposals.

- Each of the case studies in this report highlights the importance and value (for the States, for the United Nations, but most of all for individual rights-holders) of close cooperation between States and United Nations mechanisms, entities and Country Teams. Crucially, that must include **United Nations cooperation with governments**. Nearly all the instances of human rights progress identified in this report were built on governments and the United Nations pulling in the same direction, within a relationship built on mutual trust. This does not mean the two will always agree about how to bring about human rights improvements; nor does it mean that other national stakeholders (e.g. parliamentarians, judges, civil society representatives) should not be involved too – on the contrary, they should be centrally involved (see the next point). But it does mean that it is in the interests of both governments and UNCTs to work together to leverage engagement with the United Nations human rights mechanisms in order to drive change.

- This report also finds considerable evidence to support the argument that implementation must be understood and taken forward as a **democratic** rather than a *bureaucratic* exercise. In some cases (e.g. UK, Kyrgyzstan), governments may not agree with recommendations or may find them too politically sensitive to address. In other cases, national actors such as parliamentarians, judges, NHRIs or NGOs are simply better placed to take the lead on implementation. What is important to understand is that even when a government is unwilling or unable to act, it is still possible to make progress by working with other ‘agents of change’. The case of Kyrgyzstan nicely illustrates this point. There was a lack of political will for relevant government ministries to take steps to implement United Nations recommendations on bride-kidnapping; therefore, UNICEF worked instead with female parliamentarians and with civil society (including the media, NGOs and religious leaders) to introduce important new legislation on CEFM and to run information/education campaigns to change public perceptions, respectively.

- The principal barrier to wider and deeper progress on the part of most States is not a lack of political will, but rather insufficient **human and technical capacity** to engage effectively (including through periodic reporting) with the human rights mechanisms, as well as with other related processes (e.g. reporting under the 2030 Agenda or under regional human rights mechanisms), and to manage, coordinate the implementation of, and track/measure progress with, recommendations received. As the Uruguay case study in this report shows, an important way in which States can overcome such constraints is by centralizing all reporting, implementation, tracking and measurement responsibilities (thereby benefiting from improved efficiencies) in single ‘national mechanisms for implementation, reporting and follow-up’ (**NMIRFs**). NMIRFs also have the added advantages of linking human rights recommendations with SDG implementation, and of acting as a single access point of engagement for multilateral and bilateral development partners.

- The findings of this study highlight the importance of the principles underlying the **‘One UN’** policy, as well as the Human Rights Up Front initiative and the Secretary-General’s development system reforms. Those principles, especially

that human rights recommendations should be centrally integrated into United Nations country programming and that all relevant parts of the United Nations should work together (rather than in silos) to drive change, were clearly evident in Kyrgyzstan, where UNICEF, UNDP, UN Women and UNFPA worked closely together on the issue of CEFM as part of the United Nations Gender Group. Uruguay, a ‘One UN’ pilot country, offers another positive example of the benefits of close collaboration between different parts of the United Nations.

- Linked with the above point, the case studies presented in this report also offer a number of good practice examples of **bilateral development partners** supporting the implementation of key clusters of human rights recommendations. For instance, the UK Embassy in Kyrgyzstan helped fund a number of awareness-raising and communication campaigns about bride-kidnapping, while the Swiss Agency for Development Cooperation funded a project with Mongolia’s National Centre for Public Health and UNICEF to produce a report on the impacts of air pollution on children’s rights. In a particularly powerful example, the EU teamed up with UNICEF and UNDP to bring Montenegro’s social welfare and childcare systems into line with international human rights standards, thereby supporting the country’s progress towards EU membership.

- **Tracking and measuring human rights change** at national level, including as a consequence of the implementation of United Nations recommendations (i.e. impact), is a crucial – but generally overlooked – part of the reporting–implementation–reporting cycle. The six case studies in this report reveal a number of good practice examples of UNICEF working with the respective governments to put in place such measurement systems. For instance, in Kyrgyzstan, UNICEF worked with the Government to set up an evaluation methodology that combined results-based management with a human rights-based approach, while in Montenegro, UNICEF helped the Government set up a Multiple Indicator Cluster Survey, which has generated a large and internationally comparable data set on issues such as early childhood development, domestic violence, child discipline and life satisfaction.

## ACRONYMS AND ABBREVIATIONS

<b>CAT</b>	Convention against Torture
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CEFM</b>	Child, early and forced marriage
<b>CERD</b>	Convention on the Elimination of Racial Discrimination
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>EU</b>	European Union
<b>NGO</b>	Non-governmental organization
<b>NHRI</b>	National human rights institution
<b>NMIRF</b>	National mechanism for implementation, reporting and follow-up
<b>SDG</b>	Sustainable Development Goal
<b>UK</b>	United Kingdom of Great Britain and Northern Ireland
<b>UNCT</b>	United Nations Country Team
<b>UNDAF</b>	United Nations Development Assistance Framework
<b>UNDP</b>	United Nations Development Programme
<b>UNICEF</b>	United Nations Children’s Fund
<b>UNSDCF</b>	United Nations Sustainable Development Cooperation Framework
<b>UPR</b>	Universal Periodic Review
<b>URG</b>	Universal Rights Group

# ENDNOTES

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\*Methodology note: The data on human rights recommendations used for URG's analysis is based on a cross-referencing of two existing databases, namely, the Danish Institute for Human Rights' 'Human Rights Data Explorer' and the Office of the High Commissioner for Human Rights' 'Universal Human Rights Index'. The exact period covered by URG's analyses for each country case study was determined by the availability of data across those two databases.



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