Children’s Ombudsman - Study
PREFACE

Save the Children has throughout its entire history promoted children’s rights and aimed at contributing to full compliance to children’s rights in its work. In the work of Save the Children Norway this includes promoting the establishment of ombudsman for children institutions, and – where relevant – supporting such offices. Collaboration and partnership with ombudsmen for children is a commitment in nearly half of the countries where Save the Children Norway is working.

Through this report, Save the Children Norway wants to present an overview of these activities in the relevant programme countries. The report draws general conclusions on experiences and lessons learned and proposes action points for further work.

It is hoped that this report will serve as a knowledge base and inspiration for Save the Children Norway staff, partner organisations, other child rights organisations and also governments. It is also hoped that it will contribute to the larger body of knowledge about child rights based work.

This report constitutes the first volume in a series and is planned to be followed up by other volumes addressing e.g. training package on children’s ombudsman and information to children.

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Independent Institutions Protecting Children’s Rights
Experience from Save the Children Norway programme countries

1. Introduction

The world’s first ombudsman for children was appointed in Norway in 1981. Inspired by the work of the ombudsman and cooperation with the ombudsman’s office in Norway, Save the Children Norway has made a commitment to promoting the establishment of, and giving support to similar institutions in programme countries.

According to the latest counts, there are now more than 60 ombudsman for children offices around the world. Most of them are at national level, others at state or province level. At least 38 countries have such offices.¹ Nine of them ² are in countries where Save the Children Norway (SCN) is present. In other programme countries, SCN is promoting the idea and is making efforts to convince national counterparts within government and civil society of the need for an independent agent to monitor the implementation of children’s rights. They are considered an important part of the combined efforts at national level to secure optimal implementation of the Convention on the Rights of the Child (CRC). They are often referred to as ombudsman for children or commissioner for children, although their official names vary greatly. In a generic way they could be referred to as independent institutions protecting children’s rights.

This study represents an effort to compile information from countries where SCN has been active – one way or another – in the establishment of independent institutions protecting children’s rights. Information has also been collected from countries where SCN was not involved in the establishment, but currently collaborates with the ombudsman for children. Experience has been analysed and the lessons learned have been formulated. The purpose of this exercise is the combination of the following four elements:

1. Documenting SCN work related to ombudsman for children offices;
2. Increasing the quality of SCN work with such offices;
3. Helping secure the integrity and quality of ombudsman for children’s offices; and
4. Providing a resource document for SCN, other members of the International Save the Children Alliance, other NGOs and others concerned with monitoring children’s rights.

The principal target group for this report is staff at SCN Head Office and programme country offices as well as their partners. It is to be hoped that it will assist them in further work to promote and support independent institutions for the protection of children’s rights in programme countries. Secondly, this report is aimed at other child rights organisations that are interested in or involved in efforts to advocate for the establishment of independent institutions for children’s rights. Thirdly, this report might be useful for SCN donors and supporters who would like to learn more about SCN work related to this issue.

As a general objective, it is hoped that this study will contribute to the field of knowledge concerning rights based work for children. This study is a desk study, conducted within a

² Afghanistan, Albania, Bosnia and Herzegovina, Ethiopia, Guatemala, Mongolia, Nicaragua, Nepal and Norway.
limited period of time. It is based on information available in SCN Head Office – including policy documents, Annual Plans for 2003, 2004 and 2005, and other internal documents – as well as brief questionnaires sent to key personnel in the field. Interviews have been conducted with available key personnel. In this perspective, this report should be seen as a working document to be discussed by SCN staff and revised accordingly.

2. Independent institutions protecting children’s rights

2.1. The Norwegian experience

Following a long period of discussion at various levels of Norwegian society as well as in the Parliament, a specific law establishing the Ombudsman for Children was adopted in 1981. This was the first institution of its kind in the world, and its establishment was noted with great interest worldwide. In Norway, the ombudsman concept was already well known through the ombudsmen for the administration, gender equality and consumer protection that were already in place. The Ombudsman for Children is now a well established and respected institution in Norway, and has – in many ways – served as an export article as there has always been huge interest from abroad for information about this arrangement. It is worth noticing that in Norwegian terminology the term Ombudsman for Children is used both for the person appointed by Government to serve this function and for the office (or institution) of the Ombudsman. Anyone who speaks for the office speaks on behalf of the Ombudsman. This usage is now commonly adopted and will also be applied in this study.

Even with a relatively clear mandate formulated in a specific law, and formal independence from the government, evaluations have shown that it is only through practice that the clear profile of the ombudsman and his/her office has been established. It has taken a long process to develop a clear role vis-à-vis children, the media, government as well as the NGO sector. Further, the Norwegian experience shows that time is needed to establish a well-functioning and well respected ombudsman for children institution. Particularly, it is important to observe the fact that although the ombudsman is a frontrunner for children’s rights; he or she needs to be in touch with the realities of society as well as public opinion. Otherwise, he or she will risk that the proposals coming from the office will not be adopted and followed. It is a question of knowing exactly how much avant garde it is possible to be on behalf of children without calling for utopia. This is a very delicate balance, and calls for great skills of diplomacy and convincing arguments of the ombudsman and his/her staff. Furthermore, it is a question of timing; when to make interventions, strict prioritising which ones to make, as well as the spacing of interventions. In a modern, information driven society, such as Norway, there is huge competition on the attention of the public and great skills are needed in terms of achieving the wanted media attention. Also vis-à-vis government, it is necessary with careful timing and prioritising. If the ombudsman is

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3 Act no. 5 of 6 March 1981 Relating to the Commissioner for Children.
4 The Parliamentary Ombudsman for Public Administration, established pursuant to law in 1962.
5 Established in 1978 pursuant to the Norwegian Gender Equality Act.
6 Established in 1972 pursuant to the Marketing Control Act.
perceived as a constant annoyance and critic to government or perceived as *crying wolf*; it might be altogether ignored or neglected by government. Again, it is a question of delicate balancing, because the ombudsman must never compromise children’s rights.

2.2. *How to define a universal model for an institution protecting children’s rights*

The Norwegian model is developed with reference to a specific legal, political and civil system, with certain traditions for interaction between civil society and government. Thus, it would be difficult to apply this model directly to other countries, even in Europe. The concept, however, was eagerly embraced by many child rights advocates worldwide. In the early 1990s *UNICEF* promoted the concept heavily and encouraged all countries to establish their own ombudsman for children. Several publications have been produced by UNICEF particularly at the *Innocenti Research Centre* in Florence. This centre has become a leading institution in the international child rights discourse.8

In the early stages of the ombudsman for children discourse, the concept *ombudwork for children* 9 was introduced. The reason was probably twofold: 1) To broaden the *ombudsman* concept in order to make it applicable in various contexts, by stressing the functions rather than the organisational structure, and 2) to underline that an effective implementation and monitoring of children’s rights depends on the combined efforts of government and civil society. This implies that an ombudsman function might be conducted by an NGO. Framing it this way dilutes the concept, particularly as it takes the attention away from the solid legal base and independence an ombudsman for children needs to have. The notion of *ombudwork* should therefore be used exclusively in connection with the specific type of institutions that are discussed in this report or – preferably – altogether avoided.

In its latest publication on the issue, UNICEF has suggested the term *Independent Institutions Protecting Children’s Rights* 10 to underline the variety of organisational arrangements that might be chosen. At the same time it clarifies some main criteria that such institutions need to meet. The *Committee on the Rights of the Child* issued a general comment on the theme in 2002.11 In the view of the Committee, the protection of children’s rights in a country is best secured through and independent institution with children as its exclusive focus. However, the Committee realises that in many countries resources might be scarce and this ideal not possible. Therefore, the Committee proceeds to suggests that monitoring and protecting children’s rights might be included in the mandate of an *Independent National Human Rights Institution*, and describes certain criteria that should be met.

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8 Please see Appendices 1 and 2 for a list of suggested readings and a bibliography of relevant literature.
SCN has chosen to use primarily the term *ombudsman for children*[^12] in its own advocacy and programming. The usage of the term, however, is compatible with the recommendations of UNICEF and the Committee on the Rights of the Child. The following discussion draws on the combined contributions from UNICEF, the Committee on the Rights of the Child, SCN and others in order to give a brief introduction to the definition and function of an independent institution protecting children’s rights.

### 2.3. Why independent institutions protecting children’s rights are important

After its adoption by the UN General Assembly 20 November 1989, the Convention on the Rights of the Child (CRC) entered into force faster than any other international human rights treaty, and is now universally ratified.[^13] The speed with which it entered into force reflected a general wave of sympathy for children’s issues at the time. However, it very shortly became clear that that the concept of children having independent rights is not very deep-rooted in most societies. When States parties started to understand what their obligations under CRC really were, they began dragging their feet. This is demonstrated in the many serious remarks that the Committee has made to a number of countries on their implementation of CRC, both concerning their actual implementation of CRC and concerning their reservations placed at the time of ratification. It is also felt – for instance - through the work at grass root level, such as through the work of SCN. In the daily lives of children in their communities we often see many obstacles to the effective implementation of CRC, and lack of resources that is necessary to change the situation.

Even in countries with a fairly good general understanding of - and respect for - children’s rights there is a need for an independent and freestanding agent to monitor all aspects of society in the perspective of children’s rights and interests. The main arguments in favour of an independent institution for children’s rights could be summarised in the following main objectives:

- Children are a vulnerable group and special measures are needed to promote and protect their rights;
- Monitoring the government’s compliance to CRC, reminding government of its reporting obligations; producing supplementary reports to the official State party report;
- Ensuring that children’s interests are recognised and taken into consideration in laws and public policies;
- Representing a space for children where they can present their views, raise their concerns and file their complaints;
- Promoting the respect for the views of children;
- Acting as the representative and spokesperson for children, and
- Raising the awareness of children’s rights at all levels of society.

In fact, just having an agent with the sole mandate of looking after the rights of children, and with an independence and integrity that cannot be challenged by anyone will in itself give increased status and importance to children. Establishing such an institution is certainly not a guarantee that children’s rights will be effectively protected in a country, but it does send a significant message that its government pays certain importance to children’s rights.

[^12]: In plural: *ombudsmen*.
[^13]: With the exception of USA and Somalia that have only signed CRC, and not made it legally binding.
2.4. Role of independent institutions protecting children’s rights

Experience shows that an ombudsman for children can play an active and dynamic role in society concerning the objectives mentioned above. Particularly, he or she can play a proactive role by influencing actions for children and increasing the sensitivity for children’s rights. In most cases a dialogue with media, government and NGOs would work better than confrontation as such offices seldom have sanctions at their disposal. Well developed and convincing arguments for changes in laws or policies might work better than loud criticism. At the same time, the ombudsman should feel secure enough in his/her role to criticise whoever needs to be criticised when children’s rights are being violated or not observed, or their interests neglected. In some, but not all, countries the ombudsman for children is also given the power to receive and investigate individual complaints about child rights violations.

2.5. Essential characteristics of an independent institution’s protecting children’s rights

The principal view of SCN is that children are best served through an independent institution established by law. It should be funded in a way that secures its independence, and have a staff that is well qualified and can operate freely. This is considered the optimal solution to give children’s right the prominence they need. The Committee on the Rights of the Child has expressed a similar view.\(^\text{14}\)

However, in many countries it seems difficult to find the necessary resources to establish freestanding institutions dealing exclusively with children’s rights. It seems more realistic to create special offices within human rights institutions with a more general mandate. In many countries it is seen that such universal human rights institutions also include departments concerning the rights of specific (and vulnerable) groups such as women, children, indigenous people etc. The advantage of this is of course that children’s rights are linked with human rights in general, and not marginalised. The disadvantage is the danger that children’s rights might be overshadowed by other interests that the office takes care of.

As there could be arguments in favour of both solutions, the Committee on the Rights of the Child has taken pragmatic view, and leaves it to the individual country to decide:

*The Committee’s principal concern is that the institution, whatever its form is able to independently and effectively monitor, promote and protect children’s rights. It is essential that promotion and protection of children’s rights is “mainstreamed” and that all human rights institutions existing in a country work closely together to this end.*\(^\text{15}\)

More important than the details of the institutional form, are the functions an independent institution for children should have. In brief, the main functions could be listed as follows:

\(^{14}\) *The Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child. CRC/GC/2002/2, GENERAL COMMENT NO. 2, 4 October 2002*

1. Independence

An independent institution protecting children’s rights – whether a separate institution or a branch of a wider national human rights institution – needs to be completely independent, and free to pursue its mandate without the risk of being reproached or put out of function. This is best provided by a legal base provided by the national law maker, and if the ombudsman is appointed by Parliament / National Assembly or Government. Such a legal base serves, for instance, serves as a guarantee that institution is above government politics and intended to be a lasting institution.

However, it is not only through the implementation of the legal base that independence truly manifests itself. Among other things, it requires great integrity and diplomatic skills from the ombudsman and his/her staff. Independence is of no use if no one listens or takes the comments seriously. Above all, it requires an ability of the office to always base its actions on solid legal and professional knowledge, supported by research and scientific evidence.

The ombudsman for children should have access to all relevant information for the implementation of his or her mandate, and should not be otherwise prevented from inquiring into matters brought to his or her attention. There should be no risk of withdrawal of funding if the ombudsman expresses criticism towards government or others.

2. Clear mandate and powers

The institution should be given a clear mandate and powers. If it is given by the National Assembly or Parliament, it will most likely give the highest recognition of the status and importance of the tasks given. In some countries that are federal states or decentralised along other lines, ombudsman offices have been established at state level or other administrative units (for instance, in Belgium, where there are separate offices in the French and Flemish regions, in the UK, where there are separate ombudsman offices in Northern Ireland, Scotland, and Wales, or in Bosnia and Herzegovina, where there are separate offices in the Federation of Bosnia and Herzegovina and in Republica Srbska.). It should be kept in mind, however, that the CRC holds the State party (the national government) responsible for all children within its jurisdiction. That makes children’s rights in a country a national responsibility that ensures all children their rights.

The ombudsman’s office needs to observe full transparency in its operation, as well as in its appointment procedures. The process of establishing such an office and the appointment of the ombudsman or commissioner should –likewise – be transparent to the public.

3. Necessary resources

It goes without saying that in order to function properly; the ombudsman would need staff with the relevant qualifications and other resources. Funding should be sufficient

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16 In countries where the children’s ombudsman is part of a more general human rights institution, their mandates are more often established in an administrative decision. It remains to be seen whether this is sufficient to secure the independence and specific mandate that an ombudsman for children needs.
and come from steady sources with predictability. Information activities are costly and infrastructure needs to be in place. In order to be visible and accessible, the ombudsman and his/her staff need to be able to travel within the area of its mandate.

4. Accountability

The ombudsman should be accountable to parliament and/or government and would normally be required to present an annual report on the activities and accomplishments of the office. The report should be publicly available and preferably in a form that could be understood by children. This is important in order to prove that the ombudsman is exercising its powers in a way that serves children. The constituency that the ombudsman ultimately should be held accountable for is the children living in the country.

5. Accessibility for children

In order to serve the purpose as promoter and protector of children’s rights, the ombudsman must have regular contact with children. Firstly, it is important to have channels for information to children about children’s rights, the existence and functions of the ombudsman for children. Secondly, it is important for the ombudsman to receive information from children about their situation and conditions that influence their conditions and their rights. At the same time, there needs to be open channels and well-established mechanisms for children to inform the ombudsman about violations of their rights or conditions that are not compatible with rights established by the CRC. Children who experience personal violations should be able to file their complaints to the ombudsman. Complaints could be handled individually or creating the basis for more principal interventions from the ombudsman.

6. Collaboration with other agents

Serving as an independent institution should not mean serving in isolation. On the contrary, an ombudsman for children needs to be in close contact with a multitude of others concerned with children’s rights, such as government, civil society, labour unions, professional organisations, media, and academics – as well as with children. As an advocate for children’s rights the ombudsman needs to be in close contact with all those who have influence on children’s rights. Secondly, in order to fulfil his or her job, the ombudsman needs to draw on the broadest possible base of information relating to the living conditions of children. Thirdly, collaboration with others is necessary in order to create strong alliances to ensure that children’s rights are widely known and respected.

An ombudsman for children’s office is neither government nor non-government (NGO). It might be an office established and funded by government, but it should not be part of the regular government structure. At the same time, it is not an NGO, and should also monitor the child rights performance of NGOs – in addition to that of the government.

7. Providing remedies for breaches of children’s rights

The Committee on the Rights of the Child strongly recommends that institutions for the protection of children’s rights have the power to receive individual complaints and
petitions and to carry out investigations. Some ombudsman’s offices have within their mandate the right to receive and handle individual complaints. Others do not have this power, but might take action on behalf of groups of children when they see a problem that relates to several children. It should be noted here that handling individual cases could be extremely resource demanding, and might be impossible to include in an ombudsman office with limited resources. It might also blur the principal and overall perspective that an ombudsman needs to have if the focus is too much taken up by case handling.

Whether able to handle individual complaints or not, it is important that the ombudsman keeps a constant eye on forces in society that serve as violations or obstacles to the rights of children, and bring this knowledge to the attention of the responsible parts of government as well as to the public. Individual complaints could be used to form the basis for more principal or general initiatives to amend legislation or to remove other factors that result in violations of children’s rights.

2.6. Experience and developments

Despite intensive promotion – both as part of the general child rights discourse, and specific encouragement from UNICEF, the Committee on the Rights of the Child and others – only a small fraction of the world’s countries have ombudsman for children offices. Countries may choose to give priority to other aspects of their CRC implementation, such as putting in place national policies for education or health care. Or, they may not be willing to give any special priority to children’s rights at all. In either case, it is important to intensify the advocacy for such institutions as they represent a crucial element of the optimal CRC implementation in a country. It is also important to examine the possible forces that can act as obstacles or facilitators to the introduction of the concept. Both UNICEF and the Committee on the Rights of the Child will need to continue their advocacy. NGOs and child rights advocates can also play an important role in creating a momentum for such institutions. In addition, it will be important to develop further and clearer guidelines for the establishment of ombudsman for children offices and its functions, based on experience from existing offices.

Since 1989, UN and the international community have established several types of rights, goals and requirements concerning children that require various types of reporting.

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18 In addition to the 1989 Convention on the Rights of the Child that requires reporting two years after ratification and then at regular five year intervals, the 1990 World Summit for Children called for National Plans of Action with regular reporting to the UN. As a follow-up, the 2002 UN General Assembly Special Session for Children, adopted an outcome document "A World Fit for Children" that included 21 new goals for the coming decade. This document extends the requirement for National Plans of Action for Children and regular reporting both nationally and internationally. The World Education Forum in 2000 in Dakar (a follow-up to the World Conference on Education for All in Jomtien, 1990) established specific goals concerning education to be reached by 2015. Included in the follow-up is an the establishment of Education for All national plans, to be monitored both nationally and internationally. There are also regional charters concerning children’s rights, such as the 1990 African Charter on the Rights and Welfare of the Child. This charter also requires reporting on the implementation to a monitoring Committee at regular intervals. It should come as no surprise that both government and civil society at national level in a number of countries are confused and overwhelmed by this enormous body of planning and reporting obligations established through these international initiatives.
Complying with these requirements often includes setting up various planning committees or coordinating committees. Sometimes, they have overlapping or seemingly identical mandates. In addition, many countries have set up national councils for children (Bosnia and Herzegovina, Uganda), child protection authorities (Sri Lanka), or child welfare boards/councils (Nepal, Zimbabwe), also with mandates that may or may not be linked to the implementation and protection of children’s rights. This situation is probably very confusing for many government staff that are not particularly trained or motivated for such work, but also for SCN staff or other organisations working in the field. The main problem in this connection is that it sometimes is difficult to establish exactly what constitutes an ombudsman for children with the independence that this requires, as different from organs that are integrated parts of government administration or other, detached or semidetached organs or committees.

In Europe, where most countries now have ombudsman for children offices, a network for regular contact and sharing of experience has been established. Such collaboration might serve useful for the strengthening of existing offices and to provide useful examples for those countries that want to set up such offices.

Unfortunately, the functioning of independent institutions for children’s rights has not been subject to studies and evaluations by academics or other experts – apart from a few publications on the Norwegian and Swedish experience.

2.7. NGO role vis-à-vis ombudsmen for children

According to CRC, the main responsibility for the implementation of the Convention lies with the government of a country, representing the State party that has ratified it. In order to ensure effective implementation, the Committee on the Rights of the Child has stated that an independent institution protecting children’s rights is part of the responsibility of the government and continues to recommend countries to do establish such institutions.

NGOs can play an active role in advocating for the establishment of an ombudsman for children office through lobbying government and regular human rights offices as well as creating public demand. When the ombudsman’s office is in place, NGOs can be important partners in the work, and even give active support. However, NGOs should refrain from getting actively involved in the work of the ombudsman. That might infringe both the independency of the ombudsman’s office and of the NGO. If NGOs are too involved in the internal affairs of the ombudsman, it can raise questions about his / her integrity. It should also be kept in mind that NGOs also have an important role to play in terms of monitoring the performance of the ombudsman, and particularly keep an eye on the independence from government.

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19 ENOC - The European Network of Ombudsmen for Children. For more information, see www.ombudsnet.org
3. SCN as an advocate for children’s rights

3.1. Save the Children’s historical role concerning children’s rights

The Save the Children movement has a history concerning the promotion of children’s rights which dates back to its origin. Its founder, Egantyne Jebb, was a staunch advocate for formalising children’s rights as obligations for the nations and for the global community. Thanks to her efforts, the League of Nations adopted the *Geneva Declaration* in 1924, the first international statement on children’s rights. Actually, it was also the first international declaration on *human rights*. This became the forerunner for the *UN Declaration of the Rights of the Child* in 1959 and the *Convention on the Rights of the Child* in 1989. The 10 year drafting period of CRC was heavily influenced by Save the Children organisations together with other NGOs. Immediately after its adoption, their efforts continued by heavy promotion of its effective implementation. Among NGOs, Save the Children organisations have been leading in the use of CRC as principle and guideline for their own programming and advocacy.\(^{20}\)

It is worth noticing that it was only by the adoption of CRC that children’s rights became legally binding obligations for nations – after a 65 year long process from the adoption of the Geneva Declaration. However, the 10 point UN Declaration from 1959 was widely known as a standard setting document, particularly after the promotion by UNICEF and NGOs that took place during the *International Year of the Child* in 1979.

Save the Children can also be credited as one of the sources for the idea of an ombudsman for children. Save the Children Sweden established an ombudsman for children already in the 1970s and promoted the idea internationally during the International Year of the Child. This ombudsman office – being operated by an NGO – did not fully meet the criteria of an independent child rights institution, as described above. However, it served as an important inspiration to the further development of the concept. From 1993, Sweden has a government appointed ombudsman for children.

3.2. SCN strategy for children’s rights

Save the Children Norway builds its strategy firmly on CRC, and actively strives to refer all its work to CRC and its implementation. One of the two overall objectives in the current strategy document states that SCN shall contribute to

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\ldots \text{a general understanding of and support for children’s rights. An important aspect of this is to contribute so that national and international laws, reporting systems and institutions support the implementation of the UN Convention on the Rights of the Child.}
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\(^{21}\)

Implementing this objective comprises building up a constituency of support and commitment to children’s rights by creating awareness, understanding and commitment among decision-makers, opinion formers and everyone who has day-to-day contact with

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\(^{20}\) See for instance [www.savethechildren.net](http://www.savethechildren.net) and [www.savethechildren.net/alliance/about_us/history.html](http://www.savethechildren.net/alliance/about_us/history.html)

children. Initiatives could include producing information material, awareness campaigns and training of professionals. Further, it could include support to the development of legislative, political, administrative and community structures, practices and mechanisms, which will further the promotion and protection of children’s rights. Initiatives could include legal reforms, the establishment of national children’s commissions, children’s ombudsmen or defenders of children’s rights, children’s councils and national plans of action for children.

In the countries where SCN works such structures are often weak or non-existent. SCN has made it an important task to support their development whenever appropriate, as this is seen as a long-term investment that helps other interventions with more short-term goals. Several countries where SCN works are in a period of reconstruction after war or internal conflicts. This provides the right scenario to advocate for and to support the reconstruction of an infrastructure that is also conducive to implementation and protection of children’s rights. In a systematic form, these activities are relatively new to SCN. Although all Save the Children Alliance members base their work on CRC and actively promote its full implementation, it is not known that other Alliance members have engaged in the issue of ombudsman for children institutions in the same way as SCN.

4. SCN work related to independent institutions for children’s rights – country experience

Information from SCN programme countries where ombudsmen for children exist represents a variety of situations. Similarly, SCN involvement and collaboration varies to a great extent. Information has been collected from SCN Head Office, programme countries with known involvement of SCN either in the establishment of, in supporting or in collaboration with independent institutions for children’s rights or similar structures. In this chapter information from each country is presented in summarised form. The next chapter will analyse and summarise the experience in a series of lessons learned points.

4.1. Afghanistan

The Afghanistan Human Rights Commission (AIHRC) was established in 2002 under the Bonn Peace Agreement, and with a general mandate to address the human rights situation in the country and to monitor human rights violations. From January 2004, AIHRC has permanent constitutional status in the newly adopted Afghan constitution. Pursuant to Article 58, the commission is mandated to investigate and monitor cases of human rights violations and to refer and follow the cases to court. The Commission has a central office in Kabul and seven regional offices. The work of AIHRC at national level is carried out by seven units: monitoring and investigation, transnational justice, women’s rights, child protection, human rights education, media and publications, and research and policy. Each regional office is structured to include five units: monitoring and investigation, transitional justice, human rights education, women’s rights and child protection.

The Child Protection Unit (CPU) at AIHRC was established in 2003 – as a result of collaboration between SC S-N  and AIHRC. The Unit is still in its establishing phase and

22 SC S-N: A joint programme in Afghanistan between Save the Children Sweden and Save the Children Norway
pays great attention to internal capacity building as well as child rights education of relevant professionals and public sensitisation on children’s rights. Specific issues that have been dealt with so far include juvenile justice (establishing relevant legislation), protection against abuse, child trafficking, children deported from Saudi Arabia.

SC S-N played an active role in establishing CPU by making suggestions in that direction to AIHRC combined with offers of technical assistance and funding. SC S-N has assisted CPU in its capacity building locally, and has facilitated study visits to similar institutions in South Africa, Bosnia & Herzegovina, Norway and Sweden. SC S-N has contributed to the funding of CPU, while SC Japan has funded activities in one province.

4.2. Albania

The Sub-section for Children’s Rights (SCR) is a separate entity of the Office of the People’s Advocate (OPA), which serves as Albania’s independent national human rights institution. OPA was established in 1999, with reference to the 1998 Constitution, and with reference to special legislation from 1999. Children’s rights are included in the mandate of OPA as part of the general human rights perspective. However, there was no particular focus on children’s rights from the outset due to limited resources.

SCR came as a direct result of an initiative from Save the Children in Albania (SCiA). SCiA staff approached OPA in 2002 concerning protection of children’s rights. The following year SCiA suggested that OPA might want to establish a separate unit for children’s rights. The idea was warmly welcomed, and SCR was developed in a dialogue between OPA and SCiA. It was formally established in 2003. Efforts are now made to strengthen the legal basis of SCR by a separate law that defines it mandate. OPA and SCiA are now collaborating to pave the ground for this change.

The collaboration between SCiA and OPA to establish SCR is defined as a project for the period 2003-2007. The primary objective is to identify the problems and needs of children whose rights are most seriously violated or unfulfilled, evaluating the extent to which CRC is implemented within state institutions. Further, the project will focus on developing and applying models for promoting awareness of children’s rights and making formal recommendations to government where the rights of children are not being met. SCN contribution is primarily through two main elements: 1) technical assistance, particularly through visits of SCN child rights advisor to Albania in February 2003 and a study trip organised for Children’s Sub-section staff to Norway and Bosnia & Herzegovina in 2004; and 2) funding. Additional funding and additional technical assistance are sought from the Swedish Parliamentary Ombudsman and Ombudsman for Children through SIDA.

4.3. Bosnia and Herzegovina

The state of Bosnia and Herzegovina consists of two entities, the Federation of Bosnia & Herzegovina (which is a federation of ten cantons) and Republika Srpska. In addition, there is one district which is under the direct jurisdiction of the state. The state as well as each entity has an ombudsman institution for human rights.

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23 SCiA is a joint venture between SCN, SCUK and SC-Italy.
The state ombudsman institution is the Human Rights Ombudsman of Bosnia and Herzegovina. Since its inception, this institution did not address the issue of child rights protection specifically. Mostly, such cases were delegated to the ombudsman institutions at the entities level. The entity institutions are the Ombudsman Institution of the Federation of Bosnia and Herzegovina and the Ombudsman of the Republika Srpska. Both institutions have the powers to investigate cases involving the implementation as well as possible violations of human rights by an entity authority in their respective entities.

Currently, negotiations are conducted to facilitate a possible integration of the human rights ombudsman institutions in Federation of Bosnia and Herzegovina, Republika Srpska and the state human rights ombudsman for Bosnia and Herzegovina. SCN SEE Regional Office in cooperation with partner organisations actively advocate for specific treatment of children’s rights within the integrated institution.

4.3.1 Federation of Bosnia & Herzegovina

The Ombudsman Institution of the Federation of Bosnia and Herzegovina was established according to the Constitution of the Federation of Bosnia and Herzegovina. The first ombudsman was appointed by Parliament in 1995. The Division of the Rights of the Child (DRC) in the Ombudsman Institution was established in 1997, and become officially an integral part of the Central Office of the Institution in 1999. The first two years of its existence, it was defined as a project.

The main office is located in Sarajevo. In addition to the Division of the Rights of the Child, there are three field offices and one sub-office in five of the ten Cantons, in order to serve children at the local level properly. This is probably the ombudsman for children office in a programme country with which SCN has had the closest collaboration.

Originally, the Ombudsman Institution of the Federation of Bosnia and Herzegovina did not have a specific focus on children’s rights – although embedded in its mandate. SCN was instrumental in the establishment of DRC in consultation with the Ombudsman based on talks that were established when central SCN personnel visited Federation of Bosnia and Herzegovina in 1996.

DRC is financed mostly by SCN, and receives support for specific activities from other donors, such as UNICEF. In addition, SCN Head Office has provided technical assistance through visits from specialised personnel and by organising study trips to other ombudsman for children offices as part of the capacity building. After the SCN SEE Regional Office opened in Sarajevo in 2000, such support has continued on a more regular basis.

The unstable political situation in Bosnia and Herzegovina as well as the complicated administrative structure of the Federation of Bosnia and Herzegovina has made the establishment of the office difficult. It has also exposed the need for field offices to deal specifically with child rights issues within the Ombudsman for Human Rights Institution structure.

DRC has successfully worked to harmonise a number of domestic laws with the CRC in the capacity of consultant specialist, and advocates the issue with politicians and authorities. The Division’s handling of individual and group cases contributes to assisting individuals and groups of children, as well as to increased awareness in local communities, among
authorities and the public towards vulnerable and minority children. Also, the Division organises child rights training for professionals working in education for police officers, judges, journalists etc.

In 2001, an evaluation was commissioned by SCN, and concludes that DRC had

... reached a point where it is making a positive difference every day in the Federation. Linkages with government and non-government organizations, media, community leaders, and everyday citizens are part of its strength. Research, seminars, education on the Convention on the Rights of the Child, special reports, and support for new legislation are another part for extending its lasting influence.  

The evaluation team also found that DRC seems to be an important structure for keeping children’s rights in the collective conscience during the democratization process that currently takes place in Federation of Bosnia and Herzegovina.

4.3.2 Republika Srpska

The Ombudsman of Republika Srpska was established by the National Assembly of Republika Srpska in 2000, through the adoption of the Law on the Ombudsman (RS Oficial Gazette No. 4/2000). Pursuant to an amendment of the law in 2004, the institution is now named Human Rights Protector. A project named Protection of Children’s Rights started in 2001, with the intention to transform it into a Division for the Rights of the Child within the Ombudsman of Republika Srpska office. The Protection of Children’s Rights project has focused its activities, so far, on advocacy for children’s rights and promoting the harmonisation of domestic law with CRC and other applicable international instruments.

The Ombudsman of Republika Srpska is financed mostly by the Government and to some extent by the international community funds such as OSCE  Mission in Bosnia and Herzegovina, embassies, international organisation etc. The Protection of Children’s Rights project is financed mostly by Save the Children Norway, and partly (for specific activities) by other donors.

SCN SEE Regional Office was instrumental in the establishment of the Protection of Children’s Rights project in a close dialogue with the Ombudsman. The Ombudsman will have a significant role in the further transformation of the project into the Division for the Rights of the Child. The role of SCN in the further process will mainly be to support the capacity building of the relevant staff. This will be done partly through facilitating the exchange of experience with other relevant programmes and projects in Bosnia and Herzegovina and the region.

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4.4. **Cambodia**

To explore the possibilities for establishing an independent institution for the protection of children’s rights in Cambodia, SCN in 2002 supported a study carried out by Legal Aid of Cambodia.\(^{26}\) The study recommended SCN-CO to support a three-year plan of action that included activities aimed at the establishment of a national ombudsman for children in Cambodia in 2006, including setting up an ombudsman planning committee.

The study report mentioned the following themes that need to be followed up:

- There is a recognized need for an ombudsman for children in Cambodia;
- There is commitment and support for the development of an ombudsman from critical parties accompanied by significant scepticism;
- There seems to be no public support for an ombudsman because there is a lack of knowledge among Cambodians about children’s rights;
- There is concern that Government officials might prevent or hinder establishment of an ombudsman for children;
- Guaranteeing the independence of the ombudsman appears to be the greatest challenge;
- Corruption within Government is seen as limitation or barrier to implementation of a decision to establish ombudsman for children office;
- Interested parties do not express consensus on model to be chosen.

Because of the political situation in the country, SCN has postponed specific follow-up actions. When the time is ready, SCN wants to conduct a follow-up study and raise the issue with relevant authorities as well as with NGO partners.

4.5. **Ethiopia**

In July 2000, the President of Ethiopia proclaimed the establishment of a national *Human Rights Commission* and an *Ombudsman for Human Rights*, with reference to the Constitution of the Federal Republic of Ethiopia.\(^{27}\) The Commission shall monitor human rights violations in general in the country, whereas the Ombudsman is mandated to look particularly at possible violations by the government administration. It took until late 2004 before a Chief Commissioner and a Chief Ombudsman were appointed. They report to Parliament and receive funding from the Government.

SCN has been active in advocating for the establishment of a separate child rights unit both within the Human Rights Commission and in the Ombudsman office. Appointment of a Commissioner and Ombudsman on the affairs of women and children is still pending. SCN is ready to support this office with technical assistance and through collaboration when it is established.

\(^{26}\) Establishment of an Ombudsman for children in Cambodia. Legal Aid of Cambodia, Phnom Penh, 2002.

4.6. Guatemala

*Office of the Human Rights Ombudsman* (Procuratoria de los Derechos Humanos) was established in 1987, with reference to Articles 274 and 275 of the Political Constitution of the Republic of Guatemala. The *Children’s Rights Defence Office* (Defensoria de los Derechos de la Niñez) was established in 1990.

The Children’s Rights Defence Office is the result of an internal agreement of the Office of the Human Rights Ombudsman, and the person in charge of this office reports to the Human Rights Ombudsman. Before the establishment, a large group of NGOs lobbied for it and had a close dialogue with the then Human Rights Ombudsman. He is given much credit for the establishment of the specialised office for children’s rights. SCN was an active member of the NGO network together with SCS and SCD. The establishment of the Children’s Rights Defence Office was linked specifically to Guatemala’s ratification of CRC, and its mandate is mainly to promote and defend children’s rights as stated in CRC and domestic law.

Compared to ombudsman for children institutions in other countries, the Children’s Rights Defence Office in Guatemala probably has a mandate that is more specifically legal oriented than the others. This might be due to the situation that human rights issues are contentious in Guatemala and could only be dealt with if a narrow definition is applied. On occasions, SCN together with other parts of civil society has found it necessary to defend the Children’s Rights Defence Office and its independence in public.

The Children’s Rights Defence Office has received extensive technical and financial support from UNICEF, SCN and SCS. SCN has supported and collaborated with the office, particularly on issues such as child abuse. SCN supported a media campaign on this topic and the efforts for a legislative reform to harmonize domestic law with CRC. Lately, SCN has also supported the Department for Education – another branch of the office of the Human Rights Ombudsman – because of its information activities aimed at children, adolescents and parents. In 2003, support has been given to capacity building and information.

4.7. Mongolia

The *National Human Rights Commission of Mongolia* (NHRCM) was established in 2001 pursuant to a law adopted by the State Great Hural (Parliament) in December 2001. SCN has been very active since 1996 in terms of giving financial and technical support to various initiatives at national level for the protection and monitoring of children’s rights. Main partner has been the Mongolian Child Rights Centre (MCRC), which has received substantial support from SCN. This support has been largely focussed on improving child development and child protection through the basic educational system, particularly with regard to two disadvantaged groups: rural children and urban migrant children. SCN funds have also been used for child policy dialogue and related legal reform processes.

SCN has actively supported MCRC in promoting the establishment of an independent institution for children’s rights. In the meantime – based on support from the Australian Government – Mongolia decided to establish NHRCM. The Commission consists of three

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28 SCD: Save the Children Denmark
commissioners, one of them with the sole responsibility for women’s and children’s rights. Apparently, MCRC continue to lobby for an independent office for children’s rights.

SCN does not retain a physical presence in Mongolia. Lack of programmatic presence and limited contact with other sectors of civil society has also constrained the extent to which SCN can engage in ongoing lobbying for an independent institution for the protection of children’s rights. SCN has recently decided to phase out its engagement in Mongolia and end it by 2006.

4.8. Montenegro

The *Institution of Protector of Human Rights and Freedoms* was established in 2003 with a wide human right mandate. So far, children’s rights are not specifically addressed in its work. Within SCN SEE Regional Office it is taken up as a new project activity to support the establishment of office for protection of children’s rights within the Institution of Protector of Human Rights and Freedoms by the end of 2005. The project comes as a response to a request from the Protector. Contacts have been established and SCN is connecting the Montenegro institution with offices in neighbouring countries that have established child rights sections or are in the process of doing so (Federation of Bosnia and Herzegovina, Republika Srpska).

4.9. Nepal

The *National Human Rights Commission* of Nepal (NRHC) is an independent and autonomous statutory body established in 2000 under the Human Rights Commission Act. As a result of a dialogue between SCN and other IGOs and NGO on one side and NRHC on the other, a decision was taken by NRHC in November 2004 to establish a *Child Rights Desk* in the Commission.

SCN and NRHC have established a programme agreement, signed in December 2004, to provide financial and technical support for the establishment of the Child Rights Desk. The project also includes a) monitoring of general child rights situations including jails and detention centres in particular, b) investigation of child rights violations and c) education and training. The activities under the agreement are expected to be completed by the end of 2005.

4.10. Nicaragua

The *Human Rights Ombudsman Office* (Procuraduría para la Defensa de los Derechos Humanos) was established in 1996 pursuant to the Law of the Ombudsmen for Human Rights Institution (Law #212). The *Special Ombudsman for Children and Adolescents* (La Procuraduría Especial de la Niñes y la Adolescencia) was appointed in 1999. The Ombudsman for children heads one of three specialised offices under the Human Rights Ombudsman. The other two deals with women’s issues and indigenous people.

SCN played a very active role in the process leading up to the establishment of the office and the appointment of the Ombudsman for Children and Adolescents. SCN was active in lobbying together with other NGOs and also participated in consultations with the Human
Rights Ombudsman. In addition, SCN supported the local NGO network for children in their demand for an effective Ombudsman for Children and Adolescents.

In the five years since the appointment of the Ombudsman for Children and Adolescents, this office and the Ombudsman himself has played an important role in almost every aspect related to children’s rights in Nicaragua (advocacy, education, mass media, legal reform, reports on the status of children’s rights in the country, research on specific issues, promotion of child participation). It is considered to be one of the institutions in Nicaragua with strongest support from civil society. This was – for instance – seen some years ago when the ombudsman took a position that Government and the Catholic Church did not approve of. The Ombudsman was under threat of the office being closed down. Due to strong public support from civil society – with SCN as an active partner – this threat was not made a reality.

SCN has had a close collaboration with the Office of the Ombudsman for Children and Adolescents since its inception. Together with other SC organisations, SCN has contributed heavily to the budget of the Ombudsman for Children and Youth. (SCN represents approximately 50% of the joint SC funding over the last 3-year period). SCN is playing a bridging role between the Ombudsman for Children and Adolescents and various actors in civil society concerning the promotion of children’s rights.

4.11. Norway

The first Ombudsman for Children (Barneombud) was appointed in 1981 pursuant to the Act Relating to the Ombudsman for Children. Originally, the mandate in a general way instructed the Ombudsman for children to monitor children’s interests at all levels of society, and provide suggestions for changes in public and private policies, when necessary. In 1998 the Act was amended to specify that it is also the task of the Ombudsman to monitor the implementation of the CRC, particularly to ensure that domestic legislation properly reflect the Convention. The Ombudsman is appointed by the Government (Ministry of Children and Family Affairs) for a four year term. No one can hold the office for more than two periods (total eight years). The ombudsman office receives its budget entirely from the Government according to specifications in the National Budget. The independence of the Ombudsman is established by the law, and the Ombudsman is required to report to the Government and the public annually.

The adoption of the 1981 law was a controversial decision by the Parliament – with a very small majority in favour. However, once the office came into function, the institution is now a well established part of Norwegian society. Since the inception in 1981, altogether 4 persons have held the office. Experience shows that the functioning of the institution is very much dependent on the priorities and individual interest of the officeholder. Likewise, the Ombudsman’s ability to keep a high profile in the media, vis-à-vis government, and the public as someone who contributes with serious inputs, depends on the personality and presentation skills of the officeholder.

SCN was not involved in the process leading up to the establishment of the office in 1981. The promotion of the idea mainly took place in political circles and in the government administration. However, SCN has had a long-time collaboration with the Ombudsman, both formally and informally. When SCN and the Ombudsman have both been engaged in the same issues, there has been collaboration on seminars, public statements and alliances to
promote change. The collaboration has been mostly on an ad hoc basis, not according to any formalised agreement of collaboration.

Further, SCN and the Ombudsman have collaborated closely within the framework of the *Forum for the Convention on the Rights of the Child* – a national network to promote CRC in Norway. In fact, the establishment of the Forum in 1994 was a joint initiative with SCN and the Ombudsman as the leading agents. Collaboration has focussed particularly on efforts to include children in the reporting process to the Committee on the Rights of the Child. Concerning supplementary reports to the Government’s, the Ombudsman has submitted his own reports separately from the joint NGO reports. This happens in an understanding that the Ombudsman as an independent agency should present his own reports based on the specific insight and experience that his office represents.

In the views of central SCN employees, the collaboration or interaction between SCN and the Ombudsman could be closer without affecting the independence and integrity of the two organisations. There is potential for closer collaboration in terms of sharing expertise on various issues, and creating better synergies between the comparative advantages of the two organisations. Sometimes there is an impression that the Ombudsman is too hesitant to make initiatives and aggressively promote children’s rights. SCN represents an activist tradition, and has many projects that directly involve children. SCN is locally represented and works in many communities around the country. The Ombudsman has a special status through its legal base and government funding, and the right to be heard by lawmakers and policymakers when decisions are made that may affect children’s interests or children’s rights. Also, in the view of SCN, the Ombudsman could be more proactive in inviting to collaboration.

In the future, SCN seems to want a more active Ombudsman, particularly vis-à-vis NGO partners. The Ombudsman should preferably take a more leading role in raising issues vis-à-vis government and in the public, as his status would give such initiatives more clout than if they came from NGOs. There are also concerns in SCN that the Ombudsman’s independence might be tainted by the close relationship with the Ministry for Children and Family Affairs. There is a tendency that the Minister and the government administration try to give too specific indications about what the Ombudsman should and should not do. SCN intends to raise a debate whether the Ombudsman should be appointed directly by the Parliament, not by the Government.

4.12. Russia

The Russian Federation does not have a national Ombudsman for children. There is apparently a federal *Ombudsman for Human Rights*, established by the end of 2004. However, there are several independent offices at local level that focus on children’s rights. They are either at republic, region, or city level. The SCN programme in Murmansk has begun promoting the idea of establishing an ombudsman for children office for the region of Murmansk. The process started in 2004 with consultations with the Ombudsman in Moscow, to seek his assistance for the further process.
4.13. Sri Lanka

Efforts have been made by SCN-HQ to address the need for an independent child rights institution in Sri Lanka. So far, the idea has not been specifically pursued.

The National Child Protection Authority (NCPA) was established in 1998, pursuant to the National Child Protection Authority Act. It is appointed by the President and has the following main tasks:

- Advise the Government in the formulation of a national policy on the prevention of child abuse and the protection and treatment of children who are victims of such abuse;
- Monitor the implementation of laws relating to all forms of child abuse; and
- Receive complaints from the public relating to child abuse and where necessary, to refer such complaints to the appropriate authorities.

NCPA has a fairly autonomous position and to some extent serves as an ombudsman office, but with its mandate limited to a specifically limited group of children.

Currently, SCiSL collaborates with NCPA in order to monitor the child rights situation in the country and to strengthen institutional capacity to deal with violations of children’s rights.

4.14. Uganda

The National Council for Children (NCC) was established in 1994 by the Ministry of Labour, Gender and Social Development with the responsibility of coordinating and monitoring the implementation of child rights programmes and policies in Uganda. NCC receives some basic funding from the government to cover salaries and other running costs. NCC has been completely dependent on funding from external donors for its activities. SCN, other SC organisations and UNICEF have given substantial support to NCC and engaged in capacity building. Most agencies have now pulled out because they do not consider NCC as having the sufficient human and financial resources. Also – according to SCN – NCC does not in practice have the necessary independence of government to serve as an ombudsman for children.

The Uganda Human Rights Commission (UHRC) has a general human rights mandate. SCN has chosen not to collaborate with this institution because of its engagement with NCC and with a reference to the fact that UHRC does not have a specific mandate concerning children’s rights.

4.15. Zimbabwe

Since 1997, it has been a part of the SCN Zimbabwe country programme to promote and assist the establishment of an ombudsman for children institution. Main counterparts have been the Department of Social Welfare – which is the key Government office responsible for children’s rights and the Child Welfare Forum – which gathers governmental bodies, national and international NGOs dealing with children’s issues. This process has – so far – resulted in the following two developments: Firstly, a governmental decentralised system of Children’s Rights Committees to monitor the situation of children, protect children where
necessary and promote children’s participation at local level. In 2002, the system was
deresigned on the experience that had been gathered, and now consists of eight District Child
Welfare Forum Committees. Secondly, the Children’s Protection and Adoption Act was
redesigned into a wider Children’s Act. The Children’s Act also included the establishment
of a Child Welfare Council, which is independent of government and has the task of
overseeing the welfare of children in the country.

These developments probably have important impacts on the child rights situation in the
country, and probably have functions that might overlap those of an ombudsman for
children. The goal of establishing an ombudsman for children in Zimbabwe, however, has
still not been reached if existing structures are compared against the criteria and functions
described in chapter 2.

5. Lessons learned

5.1. General impression

The efforts by SCN to support ombudsmen for children in programme countries can be seen
as an important element in the process of making these institutions more common. As the
previous chapter shows, country experience varies widely. This is as could be expected as
each country has a unique situation and a unique history, and also because of variations in
political and legal systems. But the variation probably also reflects variation in priority given
to this activity. SCN seems to have a rather ad hoc oriented approach to its interventions in
this field. Some very interesting and successful initiatives have been recorded. However,
there is most likely potential for similar initiatives – as well as successes – in other countries,
if it is more systematically integrated in programme planning and implementation.

It seems to be a natural role for SCN – together with other NGOs – to advocate for
independent institutions for children’s right. These are not only important elements in the
infrastructure necessary for an effective implementation of CRC in a country, but they are
also important partners and allies for NGOs.

SCN gives support to, and collaborates with a wide variety of institutions that have different
mandates in the implementation and monitoring of children’s rights. In addition to
ombudsmen for children, SCN supports and collaborates with councils for children, national
coordinating committees, and national or regional child rights alliances etc. In some cases,
they have mandates that might seem similar or maybe even overlapping to ombudsmen for
children. Ambiguity concerning the roles of various actors, in addition to the fact that the
ombudsman for children role is understood differently, calls for a more conscious and
structured approach from SCN.

In the following, some patterns and tendencies will be formulated – to serve as an input for
further discussion within SCN and with its partners.
5.2. **Important contribution to democracy building and human rights**

Certain institutional arrangements need to be in place in order to secure the optimal implementation of CRC. This is unanimously stated by SCN, the Committee on the Rights of the Child as well as by UNICEF. Independent institutions for children’s rights – or ombudsmen for children – represent one important element, and could be seen as a long-term investment in children’s rights. In countries with many urgent and pressing needs as well as limited government resources, it might be difficult to give priority to such long-term investment. However, when such investments are made, it sends a clear message that children’s rights are considered important and given priority. Although the concrete payoffs might be difficult to see immediately, the long-term effect might be a greater sensitivity to children’s rights and thus a better climate for the observance of children’s rights.

There seems to be a tendency that many countries give priority to establishing national human rights offices with general mandates before establishing offices with more specialised mandates concerning specific groups of the population. In countries where SCN works, suggestions to establish special offices or departments for children’s rights have been generally warmly welcomed, and SCN offers to help establish them accepted without major problems. SCN thus makes an important contribution to the process of giving greater importance to human rights in general, and to children’s rights in particular. It also seems that this is a contribution that is relatively less costly than other interventions in programme countries.

Some of the countries where SCN works are in a process of reconstruction after armed conflict or other internal problems (Afghanistan, Bosnia and Herzegovina, Montenegro, Guatemala, Nicaragua). It has been specifically mentioned that establishing monitoring institutions for children’s rights is part of the democratisation process and the process of securing human rights in difficult situations. The contribution to democracy building that establishing ombudsmen for children represents should not be underestimated.

5.3. **Ombudsman institutions are vulnerable.**

Experience shows that although established by government and having a legal base, ombudsman institutions can be vulnerable. When the situation in a country remains unstable, or the political situation volatile, structures such as ombudsmen for human rights or ombudsmen for children are vulnerable, too. Issues surrounding such institutions often become highly politicised and could create obstacles for their work (e.g. Nicaragua, Guatemala). It could also have as a result that the office is left vacant for longer periods of time, such as in Nicaragua. Furthermore, it should be noted that a political will at top government level is not sufficient, such as in Ethiopia where a decree from the President established a national human rights commission in 2000, but where it was not implemented until four years later. One could only speculate whether this was because of lack of resources or political will, or a combination of both. It could also have been related to a lack of

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29 Save the Children Norway’s Strategy 2002-2005.
demand from the civil society. On a different note, the Bosnia & Herzegovina evaluation report dryly notes that frequent political changes affect the daily work in many ways, for instance that contacting new officials takes considerable time. 32

5.4. Integration in country programmes varies

Activities relating to ombudsmen for children seem to be integrated in country programmes to very different degrees. Sometimes they are specifically mentioned in annual plans, sometimes not. In some cases initiatives probably have been rather informal, and not particularly costly, such as participating in or supporting national NGO coalitions in their lobbying for the establishment of an ombudsman office (Guatemala, Nicaragua). In other cases, SCN involvement represents long-time financial support (e.g. Afghanistan, Albania, Bosnia and Herzegovina, Montenegro). This will, by necessity, make these efforts more visible in programme documents. Altogether this creates a situation where documentation of SCN engagement is very uneven and not easy to access, and it might be taken as a sign that this is an activity that has unclear priority within SCN.

5.5. Advocacy for concept important

Advocacy for ombudsman institutions can take place in various ways. It could either be done by taking a visible and public role, such as in Nicaragua and Guatemala, where SCN participated actively in NGO lobbying. It can take place in more goal-directed ways, such as in Albania and the Federation of Bosnia and Herzegovina where SCN approached the general Human Rights ombudsman with a suggestion to establish a specific branch focusing on children’s rights. Or, finally, it can take place in more indirect ways, such as in Cambodia where SCN has sponsored a study to explore whether the country is ready for the concept, what obstacles there might exist, and who might be allies in a further process to promote the establishment of an independent institution for children’s rights.

In either case, it is important to act strategically and analyse carefully who the right allies might be. It is very important to be sensitive to political, juridical and other relevant aspects of the country in question. In some cases, quiet lobbying to convince key persons about the necessity of establishing an ombudsman office might be more effective than a public campaign. Sometimes, a combination of efforts might be the most effective.

Since NGOs often take a lead in children’s issues and can have substantial influence on governments’ policies and priorities, engaging in advocacy for children’s ombudsmen should be seen as an important part of their child rights advocacy. It is commendable that SCN has included it so clearly into its adopted policy. In its recommendations, the Committee on the Rights of the Child highlights that the establishment process leading up to an independent institution for children’s rights should be “consultative, inclusive and transparent; initiated and supported at the highest levels of Government, and inclusive of all relevant elements of

the State, the legislature and civil society.” In this respect, SCN is fully in line with what the Committee recommends.

5.6. Various types of support that SCN can offer

The material collected shows that SCN can support ombudsman offices in a variety of ways which can be summarised in the following three categories:

1. **Technical assistance**

   An important role played by SCN in many countries consists of contribution to the capacity building of staff at an ombudsman for children office. It could take place as direct training or through collaboration on specific projects or activities. It could also take place through organising study visits to already established ombudsman offices, or by connecting similar institutions in neighbouring countries. Countries where SCN have provided technical assistance are Afghanistan, Albania, Bosnia and Herzegovina, and Montenegro.

2. **Financial support**

   Resources are scarce in most of the countries where SCN works. In many cases the establishment of an ombudsman for children office is dependent on funding from outside of government (public) sources. In some cases the funding has come from a combination of sources, in others, SCN has represented the sole funding source. In most cases the funding agreements are defining SCN funding as temporary and with commitments from government to gradually take over. Financial support has been provided in Afghanistan, Albania, Bosnia and Herzegovina, Guatemala, and Nicaragua – and will be provided in Montenegro.

   Financial support from others than government seems to be crucial but not ideal. One of the conclusions of the Bosnia & Herzegovina evaluation report is that “dependence on donors and preparation of proposals takes time and energy away from working on children’s issues.”

   It should also be noted there that the costs involved in supporting ombudsmen for children institutions probably are quite low compared to other regular programme activities, and thus a cost effective investment for SCN.

3. **Structural support**

   A third type of support also takes place, maybe not as obvious or visible as the others, but all the more important: structural support, which can take place in many ways.

   In order to function as intended, the ombudsman for children institution should be as transparent and public as possible about its actions. The ombudsman should act

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independently and without fear of interventions from government or others. In order to secure this, it is important that NGOs support the ombudsman’s independence. This could be done by speaking out if it is threatened or by acknowledging the ombudsman as an equal partner and ally. Creating strategic alliances on certain issues or in specific project gives stronger power behind efforts to protect or amend children’s rights.

Experience from Guatemala and Nicaragua tells us that NGO support has been important for the establishment and existence of ombudsman for children offices. In both countries, SCN was an active part of the NGO community that offered such support.

On the other hand, NGOs could play an important role by following closely the work of the ombudsman and act if the ombudsman becomes too passive or his/her mandate is compromised. Being appointed by government in most countries, there will always be a careful line to distinguish between being a government office and acting as an independent institution. The government might be tempted to limit the powers of the ombudsman if he or she is too critical towards the government. In Norway, SCN is now calling for a loosening of the ties between Government and the Ombudsman for Children, by proposing that he or she should be appointed by Parliament, not by Government.

5.7. Collaboration as equal partners

In countries where an ombudsman for children or similar structure is in place and well established, such as in Norway, Guatemala or Nicaragua, it would be natural for SCN and the Ombudsman to collaborate as equal partners. This is probably best illustrated in Norway, where the Ombudsman and the SCN Norway programme have many overlapping interests, and have a long history of alliances and project cooperation. When successful, they have complemented each other, through creating strategic alliances and division of labour. There are also efforts here to establish a more systematic division of labour between the Ombudsman and SCN in the future, based on differences in status and comparative advantages.

5.8. SCN collaboration with local and international partners

In several countries, SCN has collaborated with other SC organisations in terms of supporting an ombudsman for children office, for instance through sharing the costs (Afghanistan, Nicaragua). At country level SCN has also participated in local NGO coalitions/alliances in calling for an ombudsman or entered joint collaboration (Norway, Guatemala, Nicaragua). SCN has collaborated with Ombudsmen for Children in Norway and Sweden in order to provide technical assistance to ombudsmen in programme countries (Afghanistan, Albania, Bosnia & Herzegovina). In countries such as Bosnia & Herzegovina and Guatemala, there has been co-funding with UNICEF. Such collaboration gives stronger power behind advocacy and creates a stronger basis for funding.

5.9. Evaluation

In 2001, SCN SEE Regional Office commissioned an evaluation of the Division for the Rights of the Child in the Ombudsman Institution of the Federation of Bosnia and Herzegovina to 1) assess the impact of the Division’s work; 2) assess the future role of the
Division and 3) collect information to form a basis for the sustainability of the Division.\textsuperscript{35} This is a rare exercise, as there has been literally no evaluation of other Ombudsman for Children institutions apart from in Norway and Sweden.

In the summary report from the ongoing UNICEF study on the impact of CRC, this lack of evaluation is highlighted, and one of the conclusions is a call for such evaluations.\textsuperscript{36} These are urgently needed for three reasons:

1) The concept is still not completely clear, and analyses of experience so far can help remove some of the ambiguity that still exists concerning what an ombudsman for children really is;
2) There is a need for an assessment of the various types of models, how they work and what seems to work best for optimal efficiency and sustainability;
3) As there now seems to be acceleration in the growth of such institutions, specific knowledge drawn from experience would be the best guidance in the establishment of new independent institutions for the protection of children’s rights.

In this perspective, it would be useful if the Bosnia & Herzegovina report is edited into a publication that could be circulated also outside of SCN.

5.10. Dilemmas and challenges

As mentioned before, the idea of an ombudsman for children seems to be rather well known – if not fully understood – worldwide. What lies behind the concept and what are the criteria for an office to qualify as an ombudsman seems to be far less known even within institutions or organisations that have a focus on children’s rights. This ambiguity probably exists within government, IGOs and NGOs alike, including within SCN. The ambiguity can probably be explained in many ways. The two most obvious reasons might be 1) that the existing definition of the concept has evolved through a long period of time; 2) there is a variety of institutions involved in implementing and monitoring children’s rights, sometimes with overlapping or with apparently similar mandates, and 3) there is a lack of documented experience that could advise the further use of the concept both in practical and theoretical terms.

In this situation, there is probably a great need for specific knowledge to understand the mandates and practice of various institutions well enough to distinguish between them. It might be difficult for SCN staff to know which priorities to make in giving support to national institutions or organisations, and also to advise government and other counterparts in these issues.

Uganda might be used as an example here. SCN has over a number of years given extensive support to the National Council for Children (NCC) because of its intended role of engaging in the monitoring of children’s rights. It may or may not serve the functions of an ombudsman for children. Although it has been clear for a long time that NCC does not have

the resources, competence or will to function properly, SCN has continued to support it because it is seen as the only national agency that deals with children’s rights. At the same time, there exists a Uganda Human Rights Commission that SCN has chosen not to relate to. It would be interesting to examine closer how SCN has examined NCC before deciding to give support, whether it has evaluated its performance and why SCN has not encouraged the Human Rights Commission to take an interest in children’s rights.

In Zimbabwe, an effort to support the establishment of an ombudsman for children office resulted in a child welfare council and local child welfare forum committees, which may have similar but not identical roles as an ombudsman for children. Here, it was the decision of the Government that formed the development. It is unknown to what extent SCN insisted on the original idea or has pursued it as a necessary supplement to a (still not existing) independent national agency with responsibility for monitoring all aspects of children’s rights.

These should not be seen as a critical remark concerning the performance of SCN in Uganda or in Zimbabwe, but rather as an example of the dilemmas and strategic choices SCN needs to make at country level. One question is how closely SCN needs to examine the initiatives that it supports; another is how much specialised knowledge SCN staff has for analysing its child rights counterparts and their mandates.

Another series of dilemmas are connected to the fact that establishing ombudsmen for children should actually be seen as a government responsibility. By engaging in the establishment of or support to, and ombudsman office, SCN in a way trespasses the border between government and non-government. As seen in the reports from several countries, both government and SCN seem to be comfortable with it. However, there is a delicate balance to be observed, either in terms of being careful about not taking over responsibilities from the government, or in creating the impression that the ombudsman is an extension of NGO (in this case SCN) and serving NGO interests, rather than being an independent institution. If an NGO involves too much in the functions of an ombudsman for children, it might blur its own role as well as the distinction between itself and the ombudsman. Extensive funding by an NGO might also have the same consequences: the government feels relieved of its responsibilities, and the NGO in question might be held responsible for the ombudsman. It might also be difficult to get out of the funding obligations, particularly without seeing the institution collapsing. For that reason, it would not be advisable for SCN to enter into the funding of an ombudsman for children office without the clear commitment from government to take over responsibility at a certain point, or searching some form for co-sponsoring. Obviously, in many cases – as seen from the material collected for this study – there would have not been an ombudsman for children without the engagement and resources represented by SCN.

6. Conclusions and future directions

1. SCN should continue to promote and support ombudsman for children institutions

As indicated before, SCN is doing important pioneering work by promoting and supporting ombudsman for children institutions in programme countries. Very few international NGOs are actively involved in the process of setting up ombudsman for children offices. UNICEF
promotes the idea in many ways, but it is not known to what extent it engages actively in such processes at country level. SCN should continue this type of long-term investment in children’s rights, and actively extend it to other programme countries. SCN should encourage other NGOs to make similar efforts. In order to make initiatives more powerful and sustainable, SCN should seek collaboration with other NGOs (national and international) when relevant. One important forum for such collaboration might be the International Save the Children Alliance.

2. **More visibility in programme documentation**

SCN initiatives and activities relating to independent institutions protecting children’s rights should be made more integrated and visible in country programme documentation. This significant contribution needs to be fully visible both internally and vis-à-vis external partners and donors. Higher visibility will also make it easier to share the experience and lessons learned from such programme activities.

3. **Increase internal capacity building**

As this is an area where the concept and its meaning still is not clear and well known, SCN needs to take great care in defining clearly what it wants to support, and for what purpose. SCN also needs to be sensitive to the variety of other institutions, committees or councils relating to children, children’s rights, child welfare, national plans of action for children etc. that may exist and that may or may not have overlapping or similar mandates to an ombudsman for children. SCN staff needs to be able to observe the distinctions between them, both in their internal work and vis-à-vis government or other counterparts.

For this reason, staff needs to be trained in the particulars of ombudsman for children institutions, or at least made aware of where information could be found. It could be done by establishing a special training module to be used in conjunction with more general CRC capacity building, or through guidelines for this particular kind of work. A resource library should be established in SCN Head Office. Documents such as the Bosnia & Herzegovina evaluation or the Cambodia pre-study should be made easily available, as they represent invaluable analyses of SCN efforts in this area as well as experience that could be applied in other countries.

4. **Contribute to external capacity building**

SCN is also involved in capacity building that includes or is aimed at external partners, such as government partners and NGO partners, including child lead organisations. These will also need information and specific knowledge about ombudsman for children institutions. Such information might include general information, or more specific knowledge about how to establish such institutions, how they are run and how to collaborate with them. If training material is developed as mentioned above, it should be developed with the view of making it useful also in capacity building activities with external partners.

5. **Continue mapping exercise**

As much of SCN activity in this area is not very well documented, the process of mapping should be continued, by collection and analysis of more detailed information. This could be done with a more detailed questionnaire than what has been possible in this study. It should
also be supplemented by collection of information about other institutions with similar mandates that SCN work with in programme countries, such as children’s commissions etc. In-depth studies could be done, for instance through visits to one or more countries for first hand interviews and observation.

6. **Contribute to evaluation**

More evaluation about ombudsman for children is needed. SCN has already commissioned an evaluation from Bosnia & Herzegovina. This exercise might be repeated in other programme countries where SCN has supported or collaborated with ombudsmen for children. SCN may want to seek cooperation with UNICEF Innocenti Research Centre in connection with its large impact of the implementation of CRC study. A preliminary report from this study states that more evaluation is needed to advise new initiatives. SCN could make an important contribution to this, and help developing the concept and models for implementation of it.

7. **Information aimed at children**

There is a great need for information about ombudsmen for children aimed at children, both in the general sense and – more particular about specific countries or regions. In order to make these institutions truly accessible to children, widespread information is needed. SCN should consider making such material, either as generic information, or – more realistically – in programme countries where ombudsmen for children exist.
Appendix I:

Suggested Readings

The report focuses on UNICEF Innocenti Research Centre (IRC) study on the impact of the Convention on the Rights of Child. The study aims to promote the universal realization of children's rights by documenting, analyzing and reflecting on positive experiences with the implementation of the Convention on the Rights of the Child as well as challenges that have been observed. The report looks at ombudsmen for children as one particularly element of the implementation of the Convention.

Edited by Bob Franklin (2002).
The New Handbook of Children's Rights provides up-to-date information on a topic of increasing importance across a range of disciplines and practices. It covers the debate concerning children's rights and developments in rights provision over the last twenty years. It includes issues and developments in Australia, Belgium, Scandinavia and China.

This article-by-article analysis of the implications of the Convention on the Rights of the Child includes under Article 4 an analysis of the Committee on the Rights of the Child’s comments on general measures for implementation, including development of independent offices for the protection of children’s rights (ombudsmen for children).
www.unicef.org/rightsresults/files/1_HANDBOOK.pdf

Independent Institutions: Protecting Children's Rights
Innocenti Digest No. 8, 2001, UNICEF.
This publication focuses on independent human rights institutions for children. It points out the urgent need to create such institutions in every country to protect, promote, and monitor children's rights. The publication evaluates the effectiveness and impact of existing institutions, examines the essential characteristics required if such institutions are to fulfil their functions, and challenges the objections frequently presented. Information on existing independent, statutory bodies to monitor, promote and protect the rights of children.
www.unicef-icdc.org/publications/

Peter Newell (2001).
This revised edition describes in detail the proposal for an independent Children’s Rights Commissioner (Ombudsman) to promote and protect the human rights of children in the UK. It sets out the case for, and the functions of, a Commissioner, and considers the arguments for a separate institution for children or a Commissioner integrated within a human rights
commission. It includes a draft bill and details of similar offices established in other countries.

**Children’s ombudsmen and the promotion of children’s rights.**  
*Rädda Barnen, Save the Children Sweden, 1996.*  
An overview of what ombuds offices for children do and how they are established with case studies of two ombuds offices in Costa Rica and Peru. In the conclusions, the author gives a list of points to consider in planning/advocating for an ombuds office for children.

*Professional Training Series No. 4, Centre for Human Rights (1995).*  
This handbook provides detailed guidance and United Nations principles for development of National Human Rights Institutions.

**A Voice for Children: Speaking Out as Their Ombudsman.**  
*Målfrid Grude Flekkøy (1991).*  
This analytical evaluation of the Norwegian experience covers historical and cultural background for establishing the ombudsman for children, administrative and practical issues. It shares the knowledge gained from eight years’ work as the world’s first ombudsman for children. The author covers in depth the range of cases that came up and discusses the ethical and practical questions these raised. It takes a closer look at the Convention on the Rights of the Child and its importance both in countries that ratify and those that do not.

**The European Network of Ombudsmen for Children (ENOC) website**  
The ENOC’s website is intended to share and promote the work of independent offices for children’s rights and is designed to initiate discussion and debate. The website gives details of member-offices, their activities and information about ENOC and its policy positions. It also gives references to reports and other publications about ombudswork for children.  
www.ombudsnet.org
Appendix II:

Bibliography of relevant literature


www.unicef.org/rightsresults/files/1_HANDBOOK.pdf


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NOU 1995: 26: *Barneombud og barndom i Norge: evaluering av barneombudsordningen og utredning om organiseringsformer for barn og ungdom*. In English: *The Ombudsman for Children and Childhood in Norway*


