United Nations A/HRC/28/33

General Assembly

Distr.: General
19 December 2014

Original: English

Human Rights Council

Twenty-eighth session
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Towards better investment in the rights of the child

Report of the United Nations High Commissioner for Human Rights

Summary

The present report sets out the obligations of States to invest adequately in the rights of children, in accordance with the Convention on the Rights of the Child. It considers the different stages – of the budget process – preparation, allocation, spending and monitoring – and provides a framework for a human rights-based approach to budgeting. It includes examples of good practices and a number of recommendations to ensure that adequate resources are devoted to the realization of the rights of children in all countries, regardless of the income level of the State.

GE.14-24699 (E)

1424699

Contents

		Paragraphs	Page
I.	Introduction	1 – 2	3
II.	Investment in children: overview	3 – 6	3
III.	International legal framework	7 – 23	4
	A. Right to equality and non-discrimination	14 – 15	5
	B. Best interests of the child	16 – 17	6
	C. Right to survival and development	18 – 19	6
	D. Right to participation	20 – 23	6
IV.	Generating revenue for the realization of children's rights	24 – 30	7
V.	Child rights-based budgeting and spending	31 – 51	9
	A. Budget preparation and formulation	31 – 33	9
	B. Budget enactment and the allocation of resources	34 – 36	9
	C. Budget execution: implementation and spending	37 – 39	10
	D. Accountability: monitoring, evaluation and audit	40 – 51	11
VI.	Role of the private sector	52 – 53	13
VII.	Obligations of international assistance and cooperation	54 – 56	14
VIII.	Examples of good practice	57 – 65	15
IX.	Conclusions and recommendations	66 – 67	16

I. Introduction

1. The present report is submitted to the Human Rights Council pursuant to resolution 25/6, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a report on the theme of towards better investment in the rights of the child, in close collaboration with relevant stakeholders, including States, the United Nations Children's Fund (UNICEF), other relevant United Nations bodies and agencies, relevant special procedures mandate holders, regional organizations and human rights bodies, civil society, non-governmental organizations, national human rights institutions and children themselves, and to present it to the Council at its twenty-eighth session.

2. Contributions were received from States, national human rights institutions and non-governmental organizations.[1]

II. Investment in children: overview

3. A lack of sufficient, effective, inclusive and efficient public spending on children is one of the main barriers to the realization of the rights of the child. Relevant policy and legislative commitments remain empty promises unless Governments generate and equitably allocate adequate resources for their implementation in their local and national budgets, and ensure effective and efficient use of resources.

4. Equitable, continuous and broad-based investment in children can level the playing field by providing every child with the same opportunities for survival and development.[2] Inadequate investment, especially in the most vulnerable and marginalized, can perpetuate the intergenerational transmission of poverty and inequality, leading to irreversible negative impact on children's development.[3]

5. Research shows that investment in children accrues considerable returns. It generates short-term positive benefits and cumulative long-term gains, delivering benefits not only to the individuals themselves but also to society and the economy at large; for example, improving equity in health outcomes has been found to contribute directly to economic growth.[4] It has been estimated that achieving the Millennium Development Goal targets on water and sanitation could yield a total annual economic benefit of $84 billion.[5] Investment in pre-school enrolment has been found not only to benefit individual children, for example in terms of higher future wages, but also to have public benefits in terms of enhanced welfare, crime savings and tax revenues.[6] Investment in quality, equitable

---

1 For more information, see www.ohchr.org/EN/Issues/Children/TowardsInvestment/Pages/Towardsabetterinvestmentintherightsofthechild.aspx.

2 A/68/257, para. 73.

3 Ibid., para. 74.

4 See Nicholas Rees, Jingqing Chai and David Anthony, "Right in Principle and in Practice: A Review of the Social and Economic Returns to Investing in Children" (UNICEF, 2012) 32.

5 Guy Hutton and Laurence Haller, *Evaluation of the costs and benefits of water and sanitation improvements at the global level* (2004, WHO) in Rees, Chai and Anthony, "Right in Principle and in Practice (see footnote 4), p. vii.

6 Patrice L. Engle et al, "Strategies for reducing inequalities and improving developmental outcomes for young children in low-income and middle-income countries", *The Lancet* (2011) vol. 378, No. 9799.

education benefits individuals, communities and countries: it saves lives, improves nutrition, reduces child, early and forced marriage, and leads to more equal, respectful and open societies.[7]

6. Regardless of how profitable these returns are, investment in children must be viewed through the lens of the rights of the child rather than be driven by any development benefit. The goal must be investment in the rights of children, in addition to investment in children. As the General Assembly emphasized in the annex to its resolution S-27/2 entitled “A world fit for children”, investing in the rights of children lays the foundation for a just society, a strong economy and a world free of poverty.

III. International legal framework

7. The Convention on the Rights of the Child places an obligation on all States parties, including the international community, to mobilize and allocate resources in order to invest in children. It recognizes that it is only through government budgets that services to children, such as health, education, and social protection, are delivered and children’s rights realized.

8. According to article 4 of the Convention on the Rights of the Child, States parties are required to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention. Whatever their economic circumstances, therefore, States parties must take all possible measures towards the realization of the rights of the child.[8] Article 4 also recognizes that social, economic and cultural rights can be particularly resource intensive; in relation to such rights, States parties must therefore take such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

9. Two important points must be made in this regard. First, article 4 of the Convention on the Rights of the Child does not relieve States parties of the obligation to realize the civil and political rights of children immediately. This includes, for example, the right to birth registration (art. 7), the right not to be separated from parents (art. 9), the right to participation (art. 12) and the right to protection from violence (art. 19), which all have resource implications: implementation of these rights requires legal frameworks, capable and appropriately resourced institutions and mechanisms to support children whose rights are violated. Resources must immediately be allocated to making such rights a reality, regardless of the economic situation of the country.

10. Second, while recognizing that the social, economic and cultural rights of children may not be able to be immediately realized by all States parties, article 4 imposes specific, measurable, obligations on them by requiring that the “maximum extent of their available resources” be focused on achieving these rights. This does not imply that poorer countries may avoid their responsibilities; rather, it should be understood as a call for the prioritization of children within the State budget to ensure appropriate levels of service delivery.[9] States parties that claim resource constraints must prove that every effort has been made to move towards the full enjoyment of these rights as a matter of priority, and

[7] Plan International, “Financing the right to education”, briefing paper, 2014. Available from http://plan-international.org/files/global/briefing-paper-financing-the-right-to-education.pdf.

[8] CRC/GC/2003/5, para.8.

[9] Enakshi Ganguly Thukral, “Budget for Children”, in Aoife Nolan, Rory O’Connell, Colin Harvey, *Human rights and Public Finance: Budgets and the Promotion of Economic and Social Rights* (Inbunden, Hart Publishing, 2013).

that they are truly unable, rather than unwilling, to meet these obligations.[10] Moreover, the Convention imposes an immediate obligation on States parties to take targeted measures to move as expeditiously and effectively as possible towards the full realization of economic, social and cultural rights.[11] In its general comment No. 15, the Committee on the Rights of the Child emphasized the importance of assessment tools in the use of resources and the need to develop measurable indicators to monitor and evaluate progress in the implementation of such rights.[12]

11. In 2007, the Committee on the Rights of the Child dedicated its day of general discussion to the theme “Resources for the rights of the child: responsibility of States” to foster a deeper understanding of the contents and implications of the Convention in relation to investment in children. The Committee noted the concept of “minimum core obligations” of States, which are intended to ensure, at the very least, the minimum conditions under which one can live in dignity. All States parties, regardless of their level of development, are required to take immediate action to implement these obligations as a matter of priority.

12. The obligation to progressively realize economic, social and cultural rights entails the prohibition of retrogression without strong justification. States parties must avoid measures that directly or indirectly lead to steps backward in the enjoyment of rights, except where this is fully justified by reference to the totality of children’s rights and in the context of the full use of maximum available resources.[13] In times of financial austerity, any proposed policy change or adjustment must be temporary, covering only the period of crisis; proportionate, in that the adoption of any other policy or a failure to act would be more detrimental to children’s rights; and non-discriminatory, and comprise all possible measures to support social transfers and mitigate inequalities that can grow in times of crisis; and ensure that the rights of the disadvantaged and marginalized individuals and groups are not disproportionately affected.[14]

13. In all matters concerning the rights of the child, States parties must uphold the human rights principles and standards of universality, indivisibility, accountability, transparency and the rule of law, as well as taking into account the importance of intergenerational justice. Furthermore, all rights under the Convention on the Rights of the Child, including article 4, must be in full conformity with the general principles of the Convention, namely non-discrimination, the best interests of the child, the right to life, survival and development and the right of the child to express his or her views.

A. Right to equality and non-discrimination

14. Pursuant to article 2 of the Convention on the Rights of the Child, in developing fiscal policy instruments, including taxation and public budgets, States parties to the Convention must ensure equal opportunities for the realization of rights for all children without discrimination of any kind. In particular, States should foster sustainable and inclusive economic development so that the benefits are reflected in all segments of society. While global progress has been made on many fronts as a result of the Millennium Development Goals, these achievements mask huge disparities between rich and poor,

[10] A/HRC/26/28, para.26.

[11] See Aoife Nolan, “Economic and social rights, budgets and the Convention on the Rights of the Child”, *International Journal of Children’s Rights*, No. 21 (2013), p. 248.

[12] CRC/C/GC/15, para. 107.

[13] Committee on Economic, Social and Cultural Rights, general comment No. 3, para. 9.

[14] Open letter from the Committee on Economic, Social and Cultural Rights addressed to States parties to the International Covenant on Economic, Social and Cultural Rights, 16 May 2012.

urban and rural, and different ethnic groups and genders. Today, more than 70 per cent of the world's poorest people, including children, live in middle-income countries, but they have not necessarily benefited from the increase in national income. Indeed, recent research suggests that inequality is twice as high among children as the general population. [15]

15. It is the responsibility of Governments to analyse and take into account the diversity and varying vulnerabilities of children in all parts of their territory, and design and implement responsive programmes and budgets. States parties must mobilize and allocate resources to improve the situation of marginalized and vulnerable groups of children.

B. Best interests of the child

16. Children's rights, and those of future generations, must be a primary consideration in the planning and execution of all fiscal policies and budget decisions. A rights-based approach must underpin the mobilization, allocation and spending of public resource, and human rights should be at the heart of all decisions. Child rights impact assessments and evaluations must be conducted so that the likely impact of decisions on children's rights is understood and how far the best interests of the child has been taken into account during decision-making.

17. In particular, where resources are limited, children's rights should be prioritized in budgetary allocations, and resources for the implementation of children's rights should be the last to be cut in times of economic austerity. Within this allocation, preference should be given to funds directed towards the most marginalized and vulnerable groups of children and families.

C. Right to survival and development

18. States have an obligation to prioritize budget allocations and the effective use of resources for interventions with a direct incidence on child survival and development. Essential interventions to enhance child survival include services for pregnant mothers and during childbirth, mother and child health-care services, nutrition enhancement measures and access to clean water, particularly in the early stages of the child's life.

19. States must also collect and report regularly on indicators of child survival and on the resources they are allocating to accelerate the reduction in child mortality, as well as additional resource allocations they progressively invest to expand opportunities for child development.

D. Right to participation

20. A child rights-based approach recognizes that children are not only beneficiaries of government programmes but also must be active participants in policy and budgetary processes. Article 12 of the Convention on the Rights of the Child enshrines the right of children to form an opinion and participate in issues that affect them, and give due weight to their opinions. As the Committee on the Rights of the Child clarified in its general

[15] Save the Children, *Born Equal: How reducing inequality could give our children a better future,* (London, 2012), p. vi.

comment No. 5, appearing to "listen" to children is relatively unchallenging; giving due weight to their views is what requires real change.[16]

21. In 2014, a non-governmental organization, Save the Children, undertook consultations with children on their views on investment in children. Involvement in the budgeting process was a key issue of concern for the majority of children, who explained that they were well-positioned to advise Governments because they understood the impact of this spending on their lives. They believed that all levels of government, including those at the local, regional and national levels, should include the views of children from diverse ages and backgrounds in their decision-making.

22. The right of children to participation should be enshrined in law and be present throughout the entire budgeting process, with all parts of government. Children's participation in budget setting, spending and monitoring should be meaningful and ensure that they are consulted and informed throughout the entire budgeting process, and their voices are heard and taken into account on an equal basis with those of adults. This should be formalized at all levels, from national to community level. To facilitate children's participation, States need to ensure that child-friendly, age-appropriate and safe processes and mechanisms are in place where children can articulate their views and recommendations. Save the Children found that children themselves emphasized that facilitators should ensure that children are not coerced or manipulated but give their views voluntarily, and that consultations are conducted at a time and in a location that is appropriate for children.

23. The participation of children requires the entire budgeting process to be open, transparent and accountable, and that adequate information be provided in a child-friendly manner. Fiscal and policy information must be published in a format that is easy to understand and sufficiently disaggregated to enable children and other stakeholders to identify and track budget line items intended to benefit children. Listening to children is both an end in itself and a way in which States can ensure that actions on behalf of children are sensitive to the implementation of children's rights.[17]

IV. Generating revenue for the realization of children's rights

24. An essential part of improving investment in children's rights is strengthening revenue-raising through a human rights-based approach. Efficient, effective and accountable mechanisms for mobilizing and equitably using existing public resources should be established. The requirement in article 4 of the Convention on the Rights of the Child to take measures "to the maximum extent of available resources" requires that actual current resources and potentially available ones be taken into account to determine the State's efforts to mobilize resources. At its annual day of discussion in 2007, the Committee on the Rights of the Child concluded that resources must be understood in both qualitative and quantitative terms: they include technological, economic, human, natural and organizational resources, as well as financial resources.

25. States must take tangible measures to mobilize domestic resources in order to realize children's rights under the Convention fully. Such measures include tax collection, responsible borrowing and ensuring an enabling environment for inclusive national growth and productivity, as well as attracting international investment and international financial

[16] CRC/GC/2003/5.
[17] CRC/GC/2003/5.

and technical cooperation and assistance in a way that promotes the realization of children's rights.

26. Taxation is the most sustainable and predictable source of financing for the provision of goods and services, allowing for long-term, sustainable strengthening of systems.[18] The more a State can rely on domestic rather than external resource mobilization for its financing, the more it will be able to sustain implementation of its development strategies and policies that are responsive to the needs of its people and accountable to them.[19]

27. States need to make their best efforts to expand tax revenue collection by, for example, broadening the tax base, closing tax loopholes and promoting international cooperation to avoid tax evasion, as well as by enhancing equity in revenue collection, including by actively pursuing technical assistance to strengthen public administration capacity in this area. Strong tax policies must be accompanied by the administrative and institutional capacity to collect taxes fairly and efficiently.[18]

28. The level of income generated and the process through which income is generated have an impact on the realization of children's rights. Revenue collection is a critical tool in tackling and redressing systemic discrimination; States should set up a progressive taxation system with real redistributive capacity that preserves, and progressively increases, the income of poorer households. [20]

29. In addition, Governments have the responsibility of ensuring that tax policy does not perpetuate inequality or worsen the situation of poor families. Taxation schemes as a whole should not be regressive, and any taxes with a regressive effect must be avoided or their impact mitigated. Actions or omissions by the State must not discriminate, either directly or indirectly, against any individual or group, or perpetuate inequality. According to the Special Rapporteur on extreme poverty and human rights, in order to redress structural inequalities, States should evaluate the differential impact of existing and proposed fiscal policies on different groups, in particular those who suffer from structural discrimination.[21] Periodic child impact assessments of fiscal and tax policies may assist Governments to ensure that they do not undermine the progressive realization of children's rights.

30. Ineffective taxation systems can limit the resources available for the fulfilment of children's rights. States should therefore develop and implement effective laws and regulations to obtain and manage revenue flows from all sources, ensuring transparency, accountability and equity.[22] According to estimates, international crime, corruption, and tax evasion cost the developing world $946.7 billion in 2011.[23] Globally, illicit outflows represent as much as 4 per cent in lost GDP;[18] it is furthermore assumed that developing countries lose more income owing to the existence of international tax havens, illegal capital flight and lack of transparency in the international economy than the amount they receive in foreign aid.[24] A State that does not take strong measures to tackle tax abuse and illicit financial flows cannot be said to be devoting the maximum available resources to the realization of economic, social and cultural rights.[25]

[18] Save the Children, *Tackling Tax and Saving Lives* (London, 2014).
[19] A/HRC/26/28, para. 52.
[20] A/HRC/26/28, para. 16.
[21] Ibid., para. 17.
[22] CRC/C/GC/16, para. 55.
[23] See Dev Kar and Brian LeBlanc, *Illicit Financial Flows from Developing Countries: 2002-2011* (Global Financial Integrity, Washington DC, 2013).
[24] Save the Children, *Investment in children – investment in everyone* (London, 2014), p. 5.
[25] A/HRC/26/28, para. 60.

V. Child rights-based budgeting and spending

A. Budget preparation and formulation

31. Economic policies are never neutral in their effect on children's rights,[26] and it is important that, in preparing a national, regional or local budget, government officials are fully aware of the potential impact of their decision-making on children. Officials must take a life-cycle approach to budgeting for children, taking into account their evolving needs at different ages to ensure that public spending for children is relevant and appropriate for children of each age category. By using a child rights lens and a life-cycle approach, States can better ensure that public investments made today will create long-lasting impact on future growth, sustainable development and social cohesion.

32. At the planning stage, officials must not only estimate projected expenditure but also advise policy makers on the feasibility and desirability of specific budget proposals from a macroeconomic and microeconomic perspective. Such advice, and the decisions made as a result, must be based on empirical evidence. For this reason, in order to implement a rights-based approach to public budgeting that adequately benefits children successfully, it is necessary that timely, comprehensive and disaggregated data be collected to inform resource planning, allocation and spending. Such data will help Governments to ensure that children's issues feature prominently in national and sector development strategies and that budget decisions are responsive to all children while balancing their interests with those of other marginalized population groups.

33. Budget preparation must be comprehensive, transparent, participatory and realistic. Where possible, an annual budget should be prepared with a multi-year perspective so that service providers for children are able to engage in long-term planning to ensure continued service provision for them and other marginalized groups. When considering budget proposals, officials should have available a review of the expenditure execution of the previous yearly budgets and the impact that this has had on children and other marginalized groups. Governments should provide specific, time-bound indicators in the budget with regard to the progress that they are hoping to make, to ensure that programmes are being assessed and managed effectively, and are achieving their desired aim.

B. Budget enactment and the allocation of resources

34. When enacting a budget, States must ensure that the achievement of children's rights is a primary consideration, and that children are prioritized in resource allocation. This prioritization should not, however, have an adverse impact on the rights and interests of others groups of people, particularly those who are marginalized. Although resource allocation and deciding which policies and programmes to fund are political decisions, States should at all times take into consideration their obligations relating to children's rights, the principles of non-discrimination, the best interests of children, child survival and development, and child participation.

35. A detailed budget helps different stakeholders to see how much a Government allocates to budget line items that have a direct impact on children, such as education, health, civil registration and vital statistics, child protection and the running of the general child rights infrastructure, such as children's ombudspersons. No Government can claim to be fulfilling children's rights to the maximum extent of its available resources unless it is

[26] CRC/GC/2003/5, para. 52.

able to identify the proportion of its budgets allocated to children, both directly and indirectly.[27] This does not imply that there should be a separate budget for children, but rather that budgets should be presented in such a way that specific allocations to children can be identified.

36. Each government department should incorporate children's issues into their respective portfolios, and reflect their commitment to children's rights through corresponding policy orientation and budgetary allocation.[28] There is a need for continuity and coordination between different ministries and at the different levels of government. In many States, essential services for children are provided at a local rather than a federal level, and States must ensure that devolved authorities have the necessary financial, human and other resources to discharge their responsibilities effectively. States should establish safeguards to ensure that decentralization or devolution does not lead to discrimination in the enjoyment of rights by children in different regions. [29] Where powers are delegated, States should ensure that officials at lower levels of government are aware of children's rights and how these must be taken into account in fiscal decision-making.

C. Budget execution: implementation and spending

37. While adjustments in budgets are often necessary, large discrepancies might indicate that the budget was unrealistic and not based on systematic assessment; that funds have been directed away from the programmes for which they were intended; that implementing agencies have failed to reach the beneficiaries targeted; or that there are significant administrative or treasury problems affecting budget execution. The actual expenditure of a budget is an indicator of the fulfilment of its commitment, as laid out in its budget allocation.

38. In the process of public spending, States should ensure that all children, and in particular those who are most vulnerable and marginalized, are reached. Wherever possible during in-year spending and in delivery of public services, children and other community members should be engaged to ensure the participation, ownership, accountability and sustainability of interventions. To facilitate community engagement, spending information should be made public available in a timely manner, and public accountability and oversight mechanisms, feedback and complaint processes should be put in place to allow for more effective citizen engagement and to strengthen transparency and accountability. All officials should be appropriately trained on how to respect, protect and fulfil children's rights.

39. Child-sensitive budget planning, monitoring and expenditure tracking is important to allow for an assessment of whether the amounts allocated are used for their intended purpose. A robust budget classification system that allows the tracking of spending along administrative, economic, functional, and programmatic lines is important. States are encouraged to use appropriate tools, such as a public expenditure tracking survey that can examine the manner, quality and timing of expenditures. This would also help to identify problems in service delivery such as delays, leakages, discrimination and bureaucratic bottlenecks that may result in ineffective or inefficient public spending on children. Children should be included in this budget analysis and expenditure monitoring to

[27] CRC/GC/2003/5, para. 51.

[28] See Shaamela Casseim et al, *Are Poor Children Being Put First? Child Poverty and the Budget 2000* (Cape Town, Institute for Democracy in South Africa, 2000), p. vii.

[29] CRC/GC/2003/5, para. 41.

understand and shape national and subnational budget plans, and monitor expenditure to track its correlation with the plans made.

D. Accountability: monitoring, evaluation and audit

40. To ensure that budgeted resources reach children on time, Governments should strengthen their public finance management systems and ensure accountability for public resources. Such systems should ensure not only that the money has been spent in the intended manner, but also that it has been used efficiently and effectively to achieve its aim. Corruption and mismanagement deprive children of the right to have access to services essential for their survival and development and, broadly, the enjoyment of their rights. Effective remedies should be put in place to address the mismanagement of public funds. Fighting corruption and reducing waste at all levels of public spending should be a priority for States.

41. Financial oversight should be implemented through a variety of mechanisms, including internal accountability through parliamentarians, government ministries and ombudspersons; external bodies, such as independent human rights institutions; and citizen-led social accountability mechanisms, such as social audits, scorecards and participatory budget monitoring involving student councils and children's parliaments. A supreme audit institution should be established as an independent body to scrutinize the use of public funds. Governments should then submit timely annual accounts to the institution, and engage in peer review mechanisms between and among Governments. International and regional human rights mechanisms, such as the universal periodic review, the special procedures and the treaty bodies can also hold States accountable for investment in children.

42. Adequate budget planning and equitable allocation and spending require adequate data and information and support systems. Governments should collect comprehensive disaggregated data on children from civil registration, vital statistics and other relevant sources that inform planning. Public financial management systems should ensure that information on planned and spent budget on children and excluded and marginalized groups is visible, easily extractable and interpretable.

43. Budget analysis and monitoring must be a sustained endeavour, showing longitudinal results rather than simply a one-time project.[30] The information that is produced should be used as the basis for budget planning and formulation in the following years. There should be a continued process of evaluation, considering outputs and outcomes. Child rights-based indicators should be developed and used as benchmarks to evaluate appropriately the effectiveness of programmes, and the public should be able to see comparisons between estimated beneficiaries of interventions and actual outcomes. This should be informed by empirically based statistical analysis and participatory mechanisms allowing children, young people and adults to provide feedback and contribute to the monitoring of service standards.

44. Child-sensitive participatory budget initiatives can benefit from linking children with adult governance structures and public budget accountability mechanisms across all levels, creating networks between and among citizens and civil, economic and political society actors. A collaborative approach between duty-bearers and civil society actors –

[30] Enakshi Ganguly Thukral, "Budget for Children", in Aoife Nolan, Rory O'Connell and Colin Harvey, *Human rights and Public Finance: Budgets and the Promotion of Economic and Social Rights* (Oxford, Hart Publishing, 2013).

such as children's clubs – can be a useful way to involve children in budgeting processes and support State institutions in planning and exercising their own budgetary monitoring functions.

1. Transparency and participation

45. Transparency at all stages of the budget cycle, including budget allocation and spending, both internally and externally, is crucial to effective accountability. As the Committee on the Rights of the Child emphasized during its day of general discussion in 2007, internal transparency requires that information on revenues and expenditures be available to all governmental bodies conducting impact assessments on how major spending decisions are likely to affect children's rights. External transparency obliges the Government to ensure that the budget is open and available to all stakeholders, including civil society. All public resources (including contingency funds and earmarked resources) and spending should be taken into account, including at all levels of government, so that a broad overview of all available resources and use of funds for children can be achieved.

46. Budget documents should be available and accessible to the public in a timely manner. A child-friendly citizen's budget should be produced, with information sufficiently disaggregated to enable children and other stakeholders to identify and track budget line items intended to benefit children. States should act proactively to help children to understand the budget and its implications for them. Information on budget allocations and choices should be made available in a comprehensible, easy-to-understand and child-friendly manner, but also be linked to more detailed explanations to provide a simple access point for those who want to know more.[31]

47. Not only is transparency vital for accountability; it also enables and enhances participation. Without access to information, it is difficult for citizens to hold Governments to account, and to participate in policy and budgetary processes. It is the responsibility of Governments to create a supportive and enabling environment for the participation of all citizens, including children, in accordance with article 12 of the Convention on the Rights of the Child. To ensure the existence of a supportive environment, States must guarantee children's civil rights and freedoms, including the rights to freedom of expression, association and peaceful assembly, and ensure that the development of their citizenship skills are guaranteed in practice, including through civic education and financial literacy programmes. States should facilitate consultation with children, including those from vulnerable groups, at every stage of the budgeting process. This is in line with States' human right obligations, and creates the opportunity for feedback to learn and progressively improve the design and implementation of the budget.

48. Governments should develop a direct relationship with children that goes beyond the active advocacy role that civil society and human rights institutions play for and on behalf of children.[32] Consultations between children and executive bodies should be conducted at the time of budget formulation; with parliamentarians, to empower them in their oversight role of budgeting processes; and through the implementation stage, as a complement to other internal and external accountability processes.

2. Child rights impact assessments and evaluations

49. In addition to strengthening their public finance management systems and ensuring accountability for public resources, States must create mechanisms for systematic

[31] Vivek Ramkumar and Isaac Shapiro, *Guide to Transparency in Government Budget Reports* (Washington DC, International Budget Partnership), p. 19.

[32] CRC/GC/2003/5, para. 12.

assessment of the impact of fiscal policies and budgets on the realization of children's rights. The Committee on the Rights of the Child, in its general comment No. 5, called for States to undertake ex-ante and ex-post child impact assessments and evaluations of budget and fiscal processes so that the likely impact of decisions on children's rights may be understood and how far the best interests of the child has been a primary consideration in decision-making. This should complement ongoing monitoring and evaluation of the impact of laws, policies and programmes on children's rights.[33]

50. States should undertake regular child rights impact assessments that assess the impact of any proposed law, policy or budgetary allocation on children and the enjoyment of their rights, and child impact evaluations, to assess the actual impact of implementation.[34] These assessments should be both static, to analyse individual budgets, and dynamic, to compare the allocation of budgets over time and consider variations in allocations and spending over different periods.[35]

51. Impact assessments and evaluations should consider the rights of all children affected by a particular decision, and include consideration of the differential impact of measures on certain categories of children who suffer from discrimination, marginalization or exclusion. To guarantee an impartial and independent process, the State should consider appointing an external actor to lead the assessment process; however, the State, as the party ultimately responsible for the result, must ensure that the actor undertaking the assessment is competent, honest and impartial.[36] The analysis should result in recommendations for amendments, alternatives and improvements and be publicly available.[37]

VI. Role of the private sector

52. While States have the primary responsibility to respect, protect and fulfil children's rights, the private sector can also play an important role. It can promote the strengthening and advancement of the realization of children's rights: stimulate inclusive growth and create decent jobs; enhance access to essential services; develop innovations to address human and sustainable development challenges; apply expertise and resources to improve the lives of those most in need; and reduce environmental footprints.[38] However, the realization of children's rights is not an automatic consequence of economic growth. States must ensure that the activities and operations of the private sector do not have an adverse impact on their ability to realize the investment needed to implement children's rights fully.[39]

53. Illicit financial flows and tax evasion are critical barriers for States to the mobilization of resources for the realization of children's rights. The Taxation and Customs Union of the European Union estimates that up to one trillion euros are lost to tax evasion and tax avoidance in the European Union every year[40] – money that could have been used to provide essential services, including to fulfil the rights of children. States have a

[33] Ibid., para. 45.
[34] CRC/C/GC/14, para. 35.
[35] A. Nolan, "Economic and social rights" (see footnote 11), p. 248.
[36] CRC/C/GC/16, Para. 81.
[37] Ibid., para. 80.
[38] Save the Children, *Framework for the Future - Ending poverty in a generation* (London, 2014).
[39] See A/HRC/17/31 and CRC/C/GC/16.
[40] European Commission, Taxation and Customs Union, "Estimates put the loss at up to €1 trillion a year" (http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/a_huge_problem/index_en.htm).

responsibility to ensure that non-State actors, including the private sector, respect children's rights as set out in the Convention on the Rights of the Child. Global partnerships are needed to tackle illicit financial flows and tax avoidance through international cooperation. States should develop an international agreement on the multilateral automatic exchange of tax information, commit to and implement a public register of beneficial ownership information for companies and trusts, and require public country-by-country reporting for multinational companies.[41]

VII. Obligations of international assistance and cooperation

54. The obligation under article 4 of the Convention on the Rights of the Child to use all available resources to implement children's rights goes beyond those in the national context, and extends to those available from the international community through international assistance. Countries with resource constraints have the responsibility to seek international cooperation and assistance to ensure the widest possible enjoyment of the rights of the child. States should ensure that they have explored all opportunities to secure access to funding and expertise through international cooperation, including official development assistance, grants and technical assistance. Where States raise funds through borrowing or loans, this should be achieved under the best financial terms possible, on the basis of the principles of responsible borrowing, to ensure sustainable financing for children. States should also ensure that they have rules and standards in place for responsible lending and borrowing by any government entity at any level, and oversight mechanisms for their enforcement. When signing international financial agreements, which may include conditions relating to budget allocations, States must give due consideration to the impact that the agreement may have on children, and protect critical expenditures for them.

55. Conversely, the realization of children's rights must be recognized as a shared responsibility of developed and developing countries. When States ratify the Convention on the Rights of the Child, they accept the obligation to implement its provisions within their jurisdiction. They also accept to contribute, through international cooperation, to the global implementation of the Convention, recognizing that some States will not be able to achieve the full realization of economic, social and cultural rights unless other States in a position to assist do so.[42]

56. Donors must take a child rights-based approach to the allocation and utilization of official development assistance. When a State makes decisions about granting a loan, either as an individual Government or as a member of an international financial institution, it should consider its human rights obligations when imposing conditions on fiscal policies so they do not jeopardize the rights of children in the recipient State or undermine that State's ability to use maximum available resources to realize economic, social and cultural rights.[43] States must prioritize responsible lending and borrowing, and ensure that international trade and economic transactions advance sustainable development and children's rights.[44]

[41] Save the Children, *Framework for the Future* (see footnote 38).
[42] CRC/GC/2003/5, para. 7.
[43] A/HRC/26/28, para. 33.
[44] Save the Children, *Framework for the Future* (see footnote 38).

VIII. Examples of good practice

57. Since 2000, the HAQ Centre for Child Rights has undertaken budget for children work in India, disaggregating the various heads of account in the overall union and State budgets to show the allocations made specifically for programmes that benefit children, and determine how changes in financial allocation have an impact on their lives. Following this approach, in 2008, the Government of India announced a separate statement on children in the Finance Bill, and now provides itemized information in its budget on provisions for expenditure on schemes that are aimed at the welfare of children.[45]

58. The Office of the Children's Commissioner for England has undertaken a child rights impact assessment of budget decisions, with the aim of identifying the impact of budgetary decisions on the realization of children's rights in England. The assessment comprises an analysis of the impact of tax, tax credit and welfare benefit changes, as well as changes to spending on public services, and disaggregates its findings according to children in different types of families.[46]

59. From 2009 to 2013, Germany undertook a comprehensive evaluation of marriage and family-related benefits, including the target of "child promotion and well-being". Within the framework of the evaluation, most of the State's marriage and family-related benefits were revisited to determine what contribution they made to children's well-being. A basic concept for measuring the well-being of a child was developed and also used in evaluating the benefits.

60. In Nicaragua, a "friends of children" network of municipal Governments was established, comprising 81 per cent of all municipalities. Children engage with the network to develop and resource policies on children based on their own analysis of available information. In just over eight years, their participation has helped to bring about an average 92 per cent increase in municipal investment in children in the municipalities concerned.[47]

61. In the United Republic of Tanzania, Save the Children has supported children in establishing more than 900 children's councils in seven districts. More than 25,000 children come together to learn about their rights and influence national and local decision-makers. In preparation for the 2011/2012 budget, children met with district officials to present their budget priorities, and their participation helped to increase budget allocations to benefit school feeding programmes, the construction of hostels to enable students to attend secondary education, and the recruitment of additional teachers.[48]

62. In Nepal, the Ministry of Local Development has implemented a framework for child-friendly local governance, including additional block grants for child-friendly spending and enhanced coordination and collaboration among sectoral line agencies, local

---

[45] HAQ Centre for Child Rights, "Budget for Children" (available from www.haqcrc.org/budget-children).

[46] Office of the Children's Commissioner, "A Child Rights Impact Assessment of Budget Decisions: including the 2013 Budget, and the cumulative impact of tax-benefit reforms and reductions in spending on public services 2010 – 2015", June 2013.

[47] See Accountability and Transparency for Human Rights Foundation, International Budget Partnership and Save the Children, *Turning children's rights into children's realities – Why open, inclusive and accountable budgets are important for children,* 2013.

[48] Ibid.

body associations, civil society organizations and development partners on child rights issues.[49]

63. In Ghana, Plan International supported children in increasing their knowledge of equitable budgeting and to carry out participatory surveys to assess the situation of children and particularly vulnerable groups in their communities. They analysed district budget plans against the survey results, and negotiated better budget allocation with municipal decision-makers.[50]

64. In Kenya, Plan International garnered the support of a Member of Parliament and a minister to conduct a social audit exercise in which children and adult citizens evaluated the transparency and efficiency of a decentralized government fund. The existing efforts of Government and public officials to achieve greater transparency created the necessary enabling conditions for the audit and the discussion of its results, which revealed a number of inconsistencies and non-transparent spending patterns.[51]

65. In preparation for the 2015 national budget, child leaders from across Zimbabwe presented their priorities for consideration to the Parliamentary Portfolio Committee on Finance. They submitted a 10-point plan during a budget consultative meeting, which brought together civil society, child leaders, Parliamentarians and representatives of the Ministry of Finance. The plan included a request for the allocation of additional resources to, inter alia, education, health, social security, school feeding schemes, the provision of clean water and sanitation facilities, the expansion of recreational facilities, the institution of junior councils and a junior parliament, and the establishment of a child rights commission.

IX. Conclusions and recommendations

66. **A sustainable, equitable and broad-based investment in the rights of children is crucial for the full and comprehensive realization of States' international obligations to implement children's rights, be they civil and political, social, economic or cultural.**

67. **While it has been noted that efforts have been made by States to ensure effective investment in children's rights, States should:**

(a) Regardless of their economic status, take concrete measures to mobilize domestic and, where necessary, international resources to realize children's rights; they should also evaluate current revenue sources to ensure that resources are being mobilized to the maximum extent possible;

(b) Make appropriate budgetary provisions to support the realization of the human rights of all persons within their jurisdiction, without discrimination. The enjoyment of economic, social and cultural rights should be guaranteed to the maximum extent of available resources, taking into account the best interests of the child and of future generations as a primary consideration;

(c) Prioritize children in all budget and fiscal decision-making; where resources are limited, children's rights should be given precedence, with special funds directed towards the most marginalized and vulnerable groups of children and families;

49 Somlal Subedi, *Child Friendly Local Governance* (UNICEF, 2010).
50 See Stephanie Conrad et al, *Participatory Monitoring for Accountability: Principles for involving Children and Young People* (Plan International, 2014).
51 Ibid.

(d) Strengthen public finance management systems and ensure accountability for resources, including through both internal and external audit processes. Financial oversight and accountability mechanisms should include compliance and enforcement mechanisms, remedies, sanction and redress;

(e) Ensure budget transparency by making key budget documents public during the annual budget cycle in a timely manner. To facilitate understanding of the budget by the public, including children, the Government should produce a child-friendly citizen's budget;

(f) Ensure a clear and transparent demarcation of budget lines for spending on children. Information should be sufficiently disaggregated to enable children and other stakeholders to identify, extract and track budget line items intended to benefit children;

(g) Gather comprehensive disaggregated data on children from civil registration and vital statistics and other relevant sources that inform planning and improve budget and public accounting systems, by making information on vulnerable groups visible, accessible, identifiable and extractable in all budget plans and expenditures;

(h) Ensure meaningful and inclusive participation of all children – in particular those belonging to vulnerable and marginalized groups – according to their evolving capacities, throughout the entire budget cycle, in an open, transparent, collaborative and easily accessible way;

(i) Ensure that the public, including children, can engage in fiscal processes, by guaranteeing the right to participation throughout the budget process. Appropriate forums should be used for public engagement. States should ensure child-friendly, age-appropriate and safe processes and mechanisms where children can articulate their views and recommendations;

(j) Establish an adequate enabling environment by improving legal protection of children's participation and their rights to expression, association and peaceful assembly at all levels;

(k) Implement ex-ante and ex-post child rights impact assessments and evaluations of economic policies, budgets and fiscal processes to monitor the impact of decisions on children's rights. Such evaluation must be continuous and comprehensive, and contribute meaningfully to fiscal planning and budget formulation across budget cycles;

(l) Recognize that global economic structures have an impact on a State's fiscal space, and that the international community must therefore ensure that global governance is transparent and accountable. Global partnerships and cooperation are also needed to tackle illicit financial flows and tax avoidance;

(m) Recognize that the realization of children's rights is a shared responsibility of developed and developing countries. In this light, States must honour their commitment to allocate 0.7 per cent of their gross national income to aid, and to ensure that it is transparently delivered.