

DEVELOPING A PROTECTIVE FRAMEWORK FOR CHILDREN: THE ROLE OF PARLIAMENTS
Regional parliamentary seminar hosted by the National Assembly of Viet Nam and organised by the Inter-Parliamentary Union (IPU) and the United Nations Children's Fund (UNICEF)

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SUMMARY AND RECOMMENDATIONS PRESENTED BY THE RAPPORTEUR OF THE SEMINAR

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The regional seminar entitled *Developing a protective framework for children: The role of parliaments* met in Hanoi, for three days, at the invitation of the National Assembly of Viet Nam, the Inter-Parliamentary Union and UNICEF.

This regional seminar brought together members of parliament and parliamentary staff from Australia, Cambodia, Canada, China, India, Indonesia, Lao People's Democratic Republic, Malaysia, Mongolia, Republic of Korea, Sri Lanka, Thailand and Viet Nam, to discuss a theme of fundamental importance to our societies: the protection of children. It provided participants with an opportunity to exchange views and experiences and to gain a deeper understanding of the tools at our disposal to develop a protective environment for children.

The seminar was opened by the President of the National Assembly, Mr. Nguyen Van An, in the presence of Mr. Vu Mao, President of the IPU National Group of Viet Nam, Mr Anders B. Johnsson, IPU Secretary General, and Mr. Jesper Morch, UNICEF Resident Representative. It was chaired by Mr. Ngo Anh Dzung, member of the Vietnamese Parliament and Vice-Chairman of the Committee on Foreign Affairs.

Parliamentarians met here in Hanoi with one basic common understanding: that they have the obligation to ensure that all children live in safety and dignity, regardless of their sex, colour, age, ethnicity, nationality, language, and social status. They all have the obligation to provide children with a protective environment, which requires the cooperation of everyone, at all levels, from the family to the international community, including members of parliament.

The debates began with the discussion and analyses of what a protective environment means and what it requires. A protective environment is a safety net of interconnected elements designed to safeguard children from violence, exploitation and abuse. It requires a strong government commitment to fully protecting children's rights; the development of appropriate legislation and adequate enforcement; open debates and awareness-raising to break the silence around children's plight and to change attitudes, traditions and practices that can be harmful to children; enhanced community and family capacities; regular monitoring and reporting on measures taken to protect children; measures to facilitate the safe participation of children and providing assistance to child victims.

The participants then reviewed the various functions and roles of members of parliaments and how they contribute to the development of a protective environment for children. The participants discussed respect for international standards and the importance of parliamentarians making sure that their country is party to the main instruments of international law on the protection of children's rights. It is also important that they raise, on a

regular basis, the question of the validity of reservations submitted upon ratification by some governments. Reservations should not compromise the implementation of a treaty. By definition, they are of a temporary nature, providing time for a country to fully meet the requirements of the international instrument to which it has adhered. They should eventually be removed. International instruments often require States to provide regular reports on implementation of the rights covered. These reports are analysed by United Nations committees, which deliver recommendations. Parliaments need to check the status and quality of these reports and also discuss follow-up to the recommendations made by the Committee on the Rights of the Child and hold their governments accountable in this respect.

Understandably, the main focus was on the legislative function of parliaments. Legislation is a first step in implementing international instruments and building a protective framework for children. Legal reform is designed to assess and eliminate provisions harmful to the child, and may lead to specific child protection bills.

There are three essential points that need to be taken into consideration when discussing child protection laws. First, there is no ready-made “formula” for law reform and for the nature and quality of the laws that are required. Of course there are standards, and good laws should be enacted, but nations make laws that target their specific needs. Second, while child protection legislation is critically important, it must be recognized that laws in other sectors also have an impact on children. In short, any law reform needs to be holistic. And third, thought and care must be given in enacting legislation to protect children, so that “no harm” is done. This highlights the importance of having a monitoring mechanism to determine how well the desired results are achieved, and to detect any unanticipated and undesirable side effects. Legislation is alive, and it requires constant review.

When drawing up legislation, members of parliament must keep in mind the need for coherence between local, provincial and national legislation and regulation. There is also a need to ensure that acts emanating from parliament and other non-parliamentary acts (decrees) do not contradict each other. Local authorities need to assess regularly the implementation and relevance of local initiatives whereas parliamentarians need to stimulate national debate on issues and highlight existing gaps.

The same principle applies at the regional level. Particularly in the case of child protection issues of a multinational nature, it is important that laws in neighbouring countries set common standards in order to avoid loopholes that make national legislation less effective. Therefore, greater cooperation and coordination among countries when drawing up legislation is necessary, though not enough. Without implementation, legislation is merely a paper tiger: parliamentarians are not only responsible for the adoption of laws, but also for overseeing proper implementation. It is up to parliament to demand strict compliance with the law, oversee its observance and denounce all those who by their actions or omissions do not comply, including government.

For legislation to have teeth, many elements are required. Legislation needs to be known and understood so it can be enforced. Awareness-raising campaigns and training of enforcement agents (such as police and judges) are necessary to ensure that legislation makes a difference.

Another critical element in ensuring enforcement of legislation is providing and allocating adequate resources to this end. The experience of South Africa highlighted the importance of carrying out a cost-assessment exercise in parallel with the legislative process and the usefulness of that exercise in creating legislation that can be realistically implemented. It also

demonstrated that providing more information to parliaments enhanced their oversight capacity. The exercise requires, however, a certain investment in terms of time, resources, expertise and a strong collaboration between the various governmental departments.

Parliamentary mechanisms and structures that address child protection issues was another topic on the agenda of the seminar. Participants discussed the importance of parliaments having the capacity and resources to address child protection issues. Some parliaments have specific committees on children. This is a mechanism that can generate regular parliamentary debate and that allows for a thorough focus on child protection issues, effective oversight and coordination of action. Other parliamentary initiatives were discussed: informal parliamentary forums, the example of parliamentary fronts in Brazil, and parliamentary investigative commissions that focus on particular themes, etc. There was a great deal of exchange of experiences, which could be collected into a comprehensive tool for parliamentarians.

Our discussions then moved on to the role of independent mechanisms for child protection, such as the functions of ombudsperson and national commissions. These mechanisms are excellent complements to the work that should be carried out by parliaments. Establishing an ombudsperson's office safeguards the best interest of the child by monitoring legislation adopted in parliament. The independent annual reports produced by the ombudsperson are useful for parliament, as they include recommendations for action, and follows up on recommendation made by the Committee on the Rights of the Child. The ombudsperson's office is also an important institution for children and parents as they can turn to it to ensure respect for their rights. It is important that all these different structures cooperate and coordinate their work.

Two critical problems in the region, child trafficking and violence against children, were explored as a means to examine the role of and challenges faced by parliamentarians in the field of child protection.

Trafficking is a human rights violation and crime of control and exploitation, where freedom is exchanged for bonded and forced labour and services, through deception, coercion and violence. It is a highly lucrative crime that knows no physical or geographical boundaries and flourishes illicitly where there is weak and uneven enforcement of legislation, or lax or non-existent regulatory policies. We recognize that trafficking is often associated with poverty. Trafficking should be addressed within the context of poverty alleviation and the promotion of respect for human rights and gender equality.

The participants expressed their deep commitment, as parliamentarians, to combating child trafficking, pointing out that many of those present had already helped adopt laws in this regard. Those laws needed to be comprehensive, should criminalize abusers rather than not those who are trafficked, and should be adequately enforced with sufficient resources and clearly-identified stakeholders who are held accountable. Procedures and laws should be child-friendly so that children can speak up without fear of their exploiters and be dealt within a manner that respects their human rights. It is also important that provisions be adopted for the protection of victims of trafficking, regardless of their immigration status. Birth registration and nationality issues of ethnic minorities and indigenous populations must be addressed as a mechanism to limit or prevent trafficking.

The participants recognized, through their personal experience, the importance of institutionalized mechanisms for extradition, as well as bilateral and multilateral agreements. The memorandums of understanding concluded between several countries of the region

provided useful examples of successful cooperation mechanisms. Child trafficking highlighted the crosscutting nature of child protection, the effectiveness of cooperation and the holistic and comprehensive approach that needs to be developed in order to comply with United Nations conventions, protocols and guidelines.

The other topic on the agenda was violence against children, a very vast and complex subject. Violence occurs in many settings and in various forms. It has an impact on the health, growth and development of children, and can result in lifelong trauma, disability and behavioural problems. Violence against children is the subject of an ongoing United Nations study, and a report on this will be presented to the Secretary General of the United Nations this fall. It is important that parliamentarians take note of the results of this study, debate them at a national level and promote follow-up to the recommendations.

Discussions focused, however, more specifically on violence at school and violence in the home - two places that are supposed to be havens for children.

Violence at school can be perpetuated by formal practices or it can be latent; it can be physical or psychological (violent behaviour of teachers and among children, humiliation, bullying, beating, extortion, etc.). It is a challenge to address violence at school because this type of violence is not easily identifiable. A first step would be to break the silence in order to make violence visible. Awareness-raising efforts, including the use of media campaigns, are possible options. It is also important to ensure that the school environment is child-friendly, inclusive and rights-conscious, and actively promotes non-violence between and among children and their teachers. Corporal punishment should be prohibited in school, and teachers should be sanctioned for using violence as a disciplinary measure. Training of teachers in the use of non-violent disciplinary measures should be encouraged.

The issue of violence in the home suffers from the same lack of data and visibility as violence at school. In addition, the concept of family privacy often constitutes an additional impediment to breaking the silence. Domestic violence, including incest and molestation, is still today a difficult subject to address. In that regard, parliamentarians can act as catalysts by bringing the subject to the public arena and gradually enacting concrete legislative measures outlawing domestic violence and providing for strong prevention programmes.

Various crosscutting themes came up strongly during the debates. One was the need for a holistic approach to develop a child protective-environment. Any measure to ensure child protection needs to be placed within a larger human rights context and the socio-economic environment. Links with other major societal challenges, including poverty eradication, development, ensuring quality education, employment opportunities, cannot be ignored. The family and community, whose capacities need to be strengthened in order to protect children, remain the building blocks.

Child protection required the involvement of all stakeholders. Partnerships and cooperation are essential to any progress: there must be cooperation among parliamentarians and with governments, international organizations, NGOs, the private sector, civil society, families and children. It is necessary for parliamentarians to learn from each other, to share experiences and best practices, to coordinate efforts and to support one another at the regional if not the international level. Initiatives such as this seminar serve as a useful vehicle. Other initiatives such as bilateral meetings, regular exchanges, the setting of up regional research centres on child protection issues, virtual resources centres, access to comparative data, could be

considered. All these aim at enhancing parliamentarians' capacities and strengthening a regional dynamic necessary to create a protective environment.

The presentations and the debates of the three-day seminar were rich and fruitful and participants spoke from the perspective of what they could do as parliamentarians to protect children, to ensure respect for their rights and to allow them to grow and develop free from fear, abuse and exploitation. International and regional parliamentary solidarity is essential in our pursuit of this goal.

The intense debates gave rise to concrete commitments and recommendations, as laid out in the following declaration adopted by the participants:

We, parliamentarians, commit ourselves to:

1. Doing everything in our power to protect children and ensure respect for their rights;
2. Making sure that our country is party to the main instruments of international law for the protection of children's rights;
3. Raising on a regular basis the question of the validity of reservations to the treaties that were submitted upon ratification by governments and which should not compromise the implementation of the treaty;
4. Checking the status and quality of reports submitted to the UN Committee on the Rights of the Child, providing input to these reports through public hearings and other parliamentary mechanisms, discussing follow-up to the recommendations made by the Committee and holding our governments accountable in this respect;
5. Developing an adequate legislative framework to meet internationally-agreed standards on children's rights. In so doing, we need to ensure harmonization of legislation at the national and also at the regional level: we also need to monitor on a regular basis the effectiveness and relevance of laws;
6. Ensuring proper enforcement of legislation by securing adequate resources for implementation, by carrying out information and raising awareness campaigns to educate people on their rights, and by training enforcement agents;
7. Advocating for child protection issues and using our role as leaders of public opinion to break the silence on taboos and to change attitudes, traditions and practices that can be harmful to children;
8. Developing child-friendly processes in our countries to ensure children's full participation with safety and dignity;
9. Developing within our parliaments specific mechanisms focusing on children's rights;
10. Strengthening cooperation between our parliaments, remaining in regular contact, exchanging information and best practices and supporting one another in our initiatives and action to promote children's rights;

11. Enhancing regional and international parliamentary cooperation in the field of children's rights;

In this regard,

We request:

12. Regional parliamentary structures, in particular the ASEAN Inter-Parliamentary Organization (AIPO), to play an active role in promoting implementation of children's rights, facilitating the harmonization of legislation between our countries and supporting concrete programmes in the field of child protection;
13. The Inter-Parliamentary Union to strengthen its cooperation with the United Nations and in particular UNICEF, with a view to facilitating an exchange of information and best practices, and developing capacity-building initiatives to enhance parliament's contribution to the achievement of children's rights.