Child Rights Generic Knowledge Note

Last updated: 21 September 2016   *Approver: Divisional Manager, PDG PHM*

PURPOSE

This knowledge note provides guidance on how children's rights can be applied across New Zealand's Aid Programme. Along with the Human Rights Analysis Guideline, it aims to inform concept notes, design documents, policy formulation, progress reports, activity monitoring and completion assessments and discussions with partner governments, agencies and stakeholders. *UNICEF New Zealand has kindly contributed content and diagrams which have been modified by MFAT.*
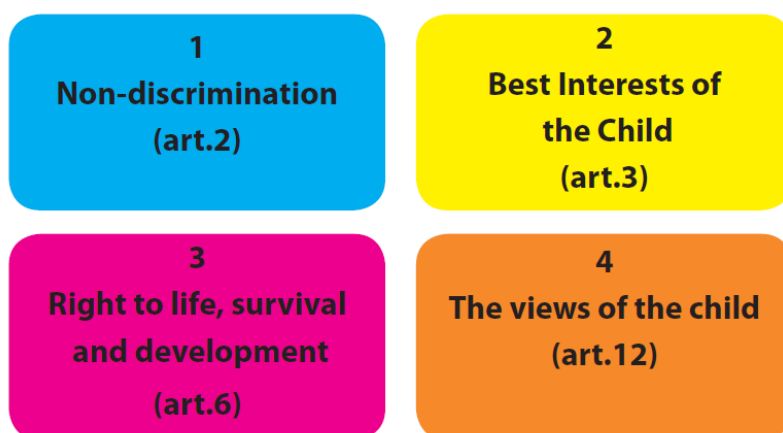
Please note that the New Zealand Aid Programme has legal requirements in child protection under New Zealand's Vulnerable Children's Act 2014 (the Act). This requires a vetting process of "children's workers" in regulated services such as health, welfare, policing, education and transport. When a children's worker employed or engaged by the New Zealand based organisation is contracted to work with children overseas the New Zealand based organisation is obligated to comply with the Act when engaging children's workers to perform specified services. Refer to MFAT [Guidance on Vulnerable Children Act](#) for requirements.

BACKGROUND

The UN Convention on the Rights of the Child (CRC) is ratified by 196 countries - including New Zealand and all Pacific Island Countries. It was adopted by the UN in 1989 and is the most widely accepted human rights convention to date.[1] Child rights became the focus of a standalone treaty because states agreed that children need special safeguards due to their relative immaturity and powerlessness. States party to the CRC agree to ensure that the rights set out in the treaty are upheld for all children, both domestically[2] and within their international cooperation.[3] The CRC establishes the rights of all children up to the age of 18 and the responsibilities of governments to protect them. The rights guaranteed within the CRC are comprehensive, including the rights to good healthcare and education, the right to a nationality, and to a language. For a detailed description of the CRC visit:
http://www.ohchr.org/en/professionalinterest/pages/crc.aspx
 The CRC is underpinned by <u>four principles</u>:

1 **Non-discrimination** **(art.2)**	**2** **Best Interests of** **the Child** **(art.3)**
3 **Right to life, survival** **and development** **(art.6)**	**4** **The views of the child** **(art.12)**

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[1] The United States is the only country yet to ratify the UN Convention on the Rights of the Child.
[2] [Article 2 of the United Nations Convention on the Rights of the Child (1989).](#)
[3] [Article 4 and Preamble of UNCROC (1989).](#)

There are three categories of child rights:

1. **Provision rights** include the right to an adequate standard of living, the right to free education, the right to adequate health resources and the right to legal and social services.
2. **Protection rights** include protection from abuse and neglect, protection from bullying, protection from discrimination, and safety within the justice system.
3. **Participation rights** include the right to have a child's views heard (principle four above) and considered in a way that is appropriate given the child's age and ability, especially when decisions are being made that affect him or her.

Progress on the implementation of the CRC is monitored through the UN Committee on the Rights of the Child. States Parties to the treaty report to this committee on a regular basis and enter in a dialogue with the Committee on its recommendations. New Zealand includes information on how the CRC has been applied within Official Development Assistance.[4]

The CRC and International Development Assistance

Article 4 of the Convention reads:

> *"States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation."*
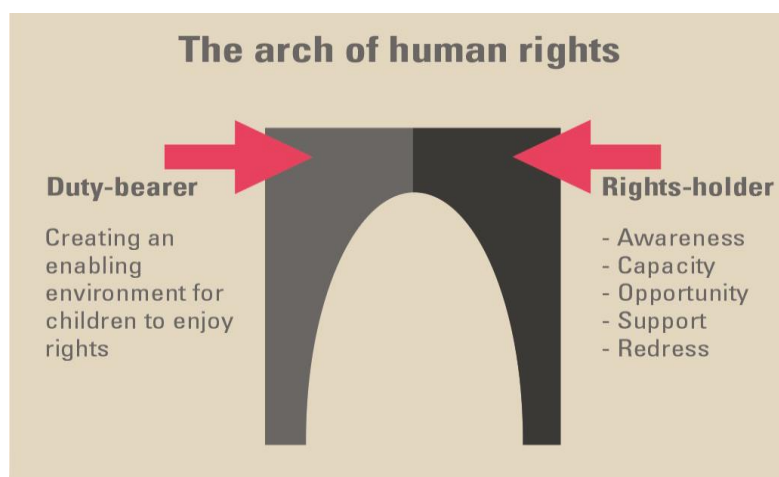
In its 2003 General Comment, the Committee on the Rights of the Child gave its views on states' obligations to implement the CRC through their international cooperation. The Committee stated that the programmes of donor agencies should be rights-based.[5]

THE CHILD RIGHTS APPROACH

A **child rights approach** uses standards and principles to guide behaviour, actions, policies and programmes to further the realisation of child rights. A useful tool to help apply the approach to your work is the **Arch and Table Test**.

THE ARCH represents developing the capacity of:

> ➤ **Duty bearers** e.g. governments, community leaders…
> To meet their obligations to respect, protect and fulfil rights and the capacity of…[6]
> ➤ **Rights holders** e.g. children, parents…
> To claim their rights.

The arch of human rights

Duty-bearer — Creating an enabling environment for children to enjoy rights

Rights-holder
- Awareness
- Capacity
- Opportunity
- Support
- Redress

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[4] The NZ Government submitted its Fifth Periodic Report to the Committee in May 2015. See the Ministry of Social Development site for more information.

[5] http://www.unicef-irc.org/portfolios/general_comments/GC5_en.doc.html

[6] Parents can be considered secondary duty bearers as well as rights holders under the CRC due to their unique relationship with children. The primary duty bearer remains the Government. The CRC established the principle that children are not the property of parents and have rights as individuals.

THE TABLE sits under the arch and is made up of the rights to:

- Life, survival and development, *Article 6* (table top)

- Non-discrimination, *Article 2* (table leg)

- The best interests of the child, *Article 3* (table leg)

- Participation, *Article 12* (table leg)

- Guidance by families and communities, *Article 5* (table leg)

- The best use of resources, *Article 4* (rug/foundation)

THE TEST

Any Activity, policy, legislation or behaviour that is fully responsive to child rights will consider all of the rights (or table legs) in the picture. Activities and policies will take into account the capacities of duty-bearers and rights holders (the arch).

CHILDREN'S RIGHTS IN POLICIES AND DESIGN PROCESSES

Children may miss out without a specific focus on their rights and needs. Considering child rights in policy development and activity design involves identifying the key structural, social and political constraints – at the household and societal level - that hinder children's development. Ensuring that impact assessments[7] consider children's rights and needs will make donors and governments more accountable to children and their families. See Module 5 of the UNICEF/EU Child Rights Toolkit for UNICEF's approach to child impacts assessment.

Participation

Consideration of child rights in programming can be politically and socially challenging. For example, cultures differ in their views on the rights of children to have a say in decisions which affect them. The engagement of foreign donors on issues of culture can be perceived as unwelcome interference. The design, implementation, monitoring and evaluation of a programme or project should take into account context specific strategies based on results of stakeholder consultations.

Article 12 of the CRC says that children and young people have the right to have their views heard on matters that affect them. Respecting children's views does not mean that children's opinions should be

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[7] MFAT's Environment and Social Impacts Operational Policy outlines requirements for impact assessments. The Policy notes (page 3) that to achieve equality and non-discrimination in participation and access, MFAT will give special consideration to children and other vulnerable groups as relevant. On page 9 of the Policy implementation Guideline, a screening question for determining risk, asks does the Activity impact disproportionately on children amongst other vulnerable groups. Part of identifying disproportional impacts on children involves understanding their particular vulnerabilities, e.g. their greater sensitivity to chemical poisoning or poor diet and impacts of these on their life chances in maturity.

automatically endorsed. Expressing an opinion is not the same as taking a decision but it implies the ability to influence decisions. See this UNICEF [Factsheet on the Right to Participation](#) for further discussion.

Child Sensitive Programming

When developing a concept note, design, policy or plan for a programme, it is important to identify and consider the rights, needs and aspirations of children. The quality of this analysis will strongly influence the quality of designs and the impact of programmes.

In child-focused sectors such as education, health, and child protection; a child's rights approach includes:

- Establishing indicators that will be used to assess programme success in terms of child rights.
- Ensuring that monitoring capacity is in place and/or capacity-building for government institutions and CSOs.
- Identifying any opportunities to involve children in the Activity.

All designs that impact on children should:

- Identify the main stakeholders with influence over issues that impact on children.
- Identify barriers and bottlenecks that prevent disadvantaged children and their families from benefiting from interventions and services and address these where possible.
- Disaggregate statistics by key variables of exclusion (such as age, gender, ethnicity, disability status, geographic location).
- Ensure budget allocation responds to the interests of the children identified in the design.
- Identify any opportunities to promote greater coordination and communication across sector working groups to realise child rights.

See Annex 1 for deeper screening questions. These are particularly relevant for child focused activities and activities that have significant impacts on children. See Annex 2 for additional resource material.

Monitoring and Evaluation

Child rights-sensitive monitoring and evaluation responds to the following types of questions:

- Has the programme delivered the desired child rights outcomes? Have the outcomes (intended or not) affected the realisation of child rights? If so, how?
- Is there any unexpected or adverse response by children (girls and boys) or their caregivers to aspects of the Activity? Is remedial action needed to promote issues affecting the realisation of child rights?
- Are there remedial actions in place not only to strengthen policy commitments but also to mitigate against 'policy evaporation' (dilution of commitments during the implementation stage)?
- Did the Activity address the underlying causes of inequality and discrimination?

Annex 1: Guiding questions for considering child rights

	A	Does this initiative proactively further the realisation of children's rights as set out in the CRC and other international human rights instruments?
	1	What are these specific rights?
Duty-bearers	B	Does this initiative help build the capacity of duty-bearers to fulfil their obligations?
	2	Who are the duty bearers? (Try to be specific)
	3	What are their obligations? (Try to be specific)
	4	Are the duty-bearers aware of their obligations?
	5	What is preventing the duty-bearers from fulfilling their obligations?
	6	How does this initiative build their capacity to fulfil their obligations?
Rights-holders	C	Does this initiative help enable children to have their rights fulfilled?
	7	Who are the rights-holders? (Be specific, include gender and include children from vulnerable groups)
	8	What are the particular rights which need to be promoted in this context?
	9	Are the rights-holders aware of their rights?
	10	What is preventing the rights-holders from having their rights fulfilled?
	11	How does this initiative build their capacity to claim their rights?
Table top (Article 6)	D	Does this initiative contribute positively to – and avoid harming – children's rights to life, survival and development?
	12	Does this initiative present any risk to children's life or survival?
	13	What measures need to be taken to protect the safety, dignity and well-being of the children involved, including girls, children with disabilities, vulnerable, minority and excluded groups?
	14	How does this initiative positively contribute to children's development to their fullest potential – both individual and groups of children?
Table leg (Article 2)	E	Is this initiative discriminating against any individual or groups of children?
	15	Is this initiative targeted at a particular group of children? If so, who?
	16	If so, why has this particular group, as opposed to others, been targeted?
	17	If so, what will be the impact on individual and groups of children who are not involved?
	18	Does this initiative discriminate against any individual or groups of children? (Including individual or sub-groups of children (girls, ethnic minorities, children with disabilities etc, within the main target group).
Table leg (Article 3.1)	F	Is this initiative being carried out in children's best interests?
	19	How does this initiative take the best interests of children as a primary consideration?
	20	Are the best interests of children in this situation identified differently by various stakeholders, e.g. parents, children, schools, government actors, traditional leaders?
	21	How can any differences in opinion be resolved?
Table-leg (Article 5)	G	Are family and community stakeholders involved?
	22	Who are the family and community stakeholders involved? (Be specific)
	23	To what extent have you consulted them/involved them in the planning, implementation, monitoring and evaluation?
	24	Is a consultation/an advocacy process needed in order to gain their support? If so, what does this need to involve?
	25	How does this initiative build the capacity of family and community stakeholders to support children to have their rights fulfilled?
Table leg (Article 12)	H	Are children able to participate in an ethical and meaningful way?
	26	To what extent have children been consulted/involved in the planning, implementation, monitoring and evaluation?
	27	If participation is appropriate, have all children been given an equal opportunity to participate, with particular regard to girls, children with disabilities, minority and excluded groups?
	28	How does this initiative contribute to the changing of attitudes and the creation/strengthening of mechanisms, processes and spaces for children to be heard in the short, medium and long term?
Foundation (Article 3)	I	Is the initiative being adequately, sustainably and ethically resourced by those responsible?
	29	What partnerships have been developed to facilitate resourcing of this initiative?
	30	Is the resourcing sustainable? (Will the resourcing come to an abrupt end and if so, what will be the consequences?)

*Adapted from the UNICEF Child Rights Education Toolkit

Annex 2: Resources

Child & Youth Development: Smart policy, good economics
Why sustainable energy matters to children
Motherhood in childhood: facing the challenge of adolescent pregnancy
Links between violence against women and violence against children in the South Pacific
The State of the World's Children with Disabilities 2013
Child rights in education
Children's Rights and Business Principle

Country specific
Reports on CRC for each country
UNICEF Pacific Island focused child protection resources

Humanitarian
Standards for child protection in humanitarian contexts
Child Protection in Emergencies in the Pacific
Pacific Protection Cluster's Quick Guide to Integrating Protection into Disaster Response in the Pacific Region. See also website: http://www.globalprotectioncluster.org/en/themes/protection-mainstreaming/examples-from-field-protection-clusters.html

Child Labour
FAO on child labour
Hazardous child labour: Protecting children from pesticide exposure
Handbook for monitoring and evaluation of child labour in agriculture: Measuring the impacts of agricultural and food security programmes on child labour in family-based agriculture.
Findings on the worst forms of child labor 2014 (Bureau of International Affairs US)

Child sex tourism
Child Sex Abuse and Commercial Sexual Exploitation of Children in the Pacific
Code of Conduct for the Protection of Children from Sexual Exploitation

Information and Community Technology
Child Rights and the Internet
Children, ICT and Development