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## Children's Rights and Policy-Making: a 6 P framework

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## **Children's Rights-Based Childhood Policy: A Six 'P' Framework**

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### **Abstract**

While public policies increasingly reference the United Nations Convention on the Rights of the Child, and consultations with children and young people are becoming routine, there is as yet no agreed understanding of what a children's rights-based approach to policymaking should look like. With a view to addressing this gap in the practice and scholarship of children's rights, this article discusses some core elements of children's rights-based policy. In doing so, we offer a framework for understanding children's rights-based approaches to policy based on the following 6 'Ps': the *principles/provisions* of the CRC; the *process* of children's rights impact assessment; the *participation* of children and young people; *partnership* to ensure joined up working; *public budgeting* to ensure that the resources are in place for implementation; and *publicity* to make policies known to children and young people. It will be argued that a human rights-based approach to policy formation, for children and others, requires a focus not just on rights-holders and their outcomes but also on their substantive rights and the information, resources and collaboration required to make them a reality.

**Keywords: implementation, policy, CRC, participation, children's rights**

## Introduction

Each day and in every country, children and young people are at the receiving end of policies that have been developed and implemented by public officials; policies that can have the potential to further children's well-being and development. Every member of the United Nations (bar one notable exception) has ratified the United Nations Convention on the Rights of the Child ('CRC'), an action that is indicative of its intention to be bound by its provisions.<sup>1</sup>

One of these provisions is Article 4 which states as follows:

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.

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The term 'administrative and other measures' clearly encompasses public policies - not just childhood policies but all policies affecting children and young people, directly and indirectly. In General Comment 19, the Committee on the Rights of the Child ('the Committee') defines policies (and the programmes that implement them) as follows:

(h) "Policies" refer to all public policies, strategies, regulations, guidelines and statements, including their goals, objectives, indicators and targeted results, that affect the rights of the child, or could do so;

(g) "Programmes" refer to frameworks within which States parties set out to achieve the aims of their legislation and policies. Such programmes may directly or indirectly affect children, for example by affecting specific rights of the child, public budget processes, infrastructure and labour.'<sup>3</sup>

The Committee has also emphasised that law and policy should not only be consistent with the standards in the CRC but that they should be developed in a way that is also child-rights compliant. It has given detailed advice as to the general measures of implementation of the CRC and many of the associated measures (such as data collection, budgeting etc.) that are at the core of policymaking generally.<sup>4</sup>

In spite of clear government commitments and guidance from the Committee, most public policies that affect children and young people, whether directly or indirectly, do not reference the CRC; indeed, many will have been designed by officials who have limited or no knowledge of its existence. A children's rights-based approach to policy development and implementation entails a conscious and deliberate effort to identify the extent to which policies align with the CRC and the use of a process that in itself is rights respecting.<sup>5</sup> While there is, to date, no definition of what it means for policy to be children's rights-based, a good starting point for any approach to rights-based activity is the UN Statement of Common Understanding of Rights-based Approaches to Programming. Essentially, it requires three things: that programming contributes directly to the realisation of human rights; that human rights standards guide all activities of programming from planning and design (including setting of goals, objectives and strategies), to implementation, monitoring and evaluation; and that the activity facilitates the development of the capacities of duty-bearers to meet their obligations and of 'rights-holders' to claim their rights.<sup>6</sup>

Applied to policymaking and delivery, we suggest that children's rights principles should guide the content of policy and that the policy process should involve children and young people and build their capacity as rights-holders to claim their rights. For example, one of the Committee's

recommendations is that every country should have a National Children's Strategy or Plan and that children and young people should be involved in its development.<sup>7</sup> The emphasis placed on rights-based policymaking is such that using the CRC to guide policy and action is increasingly being given legal status in some form, such as in the UK through: the Children and Young People (Scotland) Act (2014);<sup>8</sup> the Rights of Children and Young Persons (Wales) Measure (2011);<sup>9</sup> and the Children's Services Co-Operation (Northern Ireland) Act (2015). However, there is little detail on what a rights-based approach to policymaking should look like in practice, and few domestic policies define or mirror the characteristics of rights-based policymaking for children and young people. With a view to addressing this gap in the practice and scholarship of children's rights, we suggest that a rights-based approach to public policy would address several core areas which can be categorized as six 'Ps'. These are: the *principles/provisions* of the CRC; the *process* of children's rights impact assessment; the *participation* of children and young people; *partnership* to ensure joined up working; *public budgeting* to ensure that the resources are in place for implementation; and *publicity* to make the policies known to children and young people. We recognize that all of these are distinct yet connected aspects of policy-making and implementation and discuss them individually in the sections that follow.

## **The 6 Ps of a children's rights-based approach to public policy**

### ***Principles***

There are countless policies affecting children and young people at local, national and international levels of government and public administration. Many policies impact positively on children and young people's rights, although this is not always deliberate. Policies that aim to improve children and young people's access to health care, to education, to improve

conditions for children and young people in detention or to ensure greater child protection will, for the most part, align with the various rights established in the CRC. However, for a policy to be rights-based, accidental alignment is insufficient. Nor is a focus on ‘well-being’ rather than rights an equivalent or acceptable substitute, given the distinct differences between these two approaches.<sup>10</sup> The statement of common understanding of rights-based approaches emphasises that

a set of programme activities that only incidentally contributes to the realization of human rights does not necessarily constitute a human rights-based approach to programming... the aim of all activities is to contribute directly to the realization of one or several human rights.<sup>11</sup>

One of the many advantages of the CRC is that it is so comprehensive that it would be a very rare policy initiative that could not be linked to one or more of its goals. The CRC is one of the few human rights treaties that cover both civil and political rights, and economic, social and cultural rights. That is not to say it is perfect - various gaps in its coverage have been identified, including a lack of reference to citizenship rights or sexual orientation.<sup>12</sup> However, some of its weaknesses – such as its relatively diluted approach to children with disabilities – have since been addressed in subsequent treaties. Further, the general flexibility of existing articles means that the CRC is ‘elastic’ enough to address many aspects of children’s lived experiences, including those that have emerged in recent years.<sup>13</sup> Thus, in spite of claims that it has ‘aged’, the CRC continues to offer a broad range of substantive rights that are relevant to any policy impacting on children.<sup>14</sup>

Rights-based policy should be traced to these specific and relevant standards rather than just one or two of the CRC’s so-called ‘general principles’.<sup>15</sup> An analysis of practice across 12 countries suggests that, in both law and policy, there is a tendency to focus on two of the four

general principles of the CRC – Article 3 on the best interests of the child and Article 12 on the child’s right to express their views, and for these views to be given due weight – and that this can occur at the expense of substantive provisions of the CRC.<sup>16</sup> It has been suggested that these two principles (along with Article 2, the right to non-discrimination, and Article 6, the right to life, survival and development) have distorted understanding of the CRC as a whole.<sup>17</sup> Thus, while these four provisions are important and should be addressed, it should not be at the expense of the other substantive provisions. This is crucial as there are aspects of childhood policy which would or could be noticeably different if they were to be guided by international human rights standards. Taking education as an example, a rights-based approach to policy on attendance would find it unacceptable to not find approaches that financially penalise parents in order to get children to attend school acceptable.<sup>18</sup>

Research looking at childhood policy in the UK notes that there is a growing tendency to connect policies to the CRC.<sup>19</sup> However, that often takes the form of a brief mention of one or two relevant provisions at the start of a policy document, with little in the way of follow through.<sup>20</sup> The CRC is often mentioned in passing as ‘underpinning’ the policy or strategy in question when the policy is explicitly connected to children and young people. Stating that a policy is underpinned by the CRC can appear to be a form of window dressing, which does not fulfil the need to fully embed the CRC into policymaking. A typical example of this is the New Zealand White Paper on Vulnerable Children (2012) which is ‘underpinned’ by the CRC. However whilst it contains many of the protections covered by the CRC, it does not explicitly refer to or engage with the CRC standards.<sup>21</sup> A much more engaged and consistent approach which embeds the CRC is contained in the Wales Programme for Children and Young People (2015), and the Flemish Action Plan for Children’s Rights (2011-2014) in Belgium.<sup>22</sup>

Part of the difficulty in ensuring meaningful engagement with the substantive provisions of the CRC is undoubtedly a lack of awareness of or confidence in understanding the substantive provisions. This is, in itself, indicative of a breach of Article 42 of the CRC, which requires that the provisions of the CRC are made widely known to adults, children and young people alike. The Committee has repeatedly identified the lack of awareness of the CRC among adults, including policymakers, as a key challenge to the rights of the child. For that to change, there needs to be a programme of training and awareness that addresses these knowledge gaps. For example, the Committee has emphasised:

‘States’ obligation to develop training and capacity-building for all those involved in the implementation process - government officials, parliamentarians and members of the judiciary - and for all those working with and for children.... Training needs to be systematic and on-going - initial training and re-training. The purpose of training is to emphasize the status of the child as a holder of human rights, to increase knowledge and understanding of the Convention and to encourage active respect for all its provisions.<sup>23</sup>

Within the UK, Wales has adopted training for all government officials while in Scotland, children’s rights training is part of the mandatory framework for elected members in Glasgow City Council.<sup>24</sup> Raising awareness and understanding has been identified as crucial in many respects, not least in the ability to undertake child rights impact assessments which is discussed in the following section.

### ***Process***



Ensuring that human rights standards act as a guide to policy development and implementation requires an active process of assessment or ‘benchmarking’ against the said standards. Policy impact assessment or proofing on issues such as gender, the environment, health, and across equality dimensions more broadly is now relatively common.<sup>25</sup> This can have the effect of encouraging greater collaboration both within and between different levels of government, facilitating greater evidence based decision-making and leading to greater transparency and accountability.<sup>26</sup> However, child impact assessments, and especially child *rights* impact assessments are comparatively rare, particularly where policy is perceived to have an indirect impact on children and young people.<sup>27</sup> For policy to be rights-based, an equality or generic child impact assessment is insufficient in comparison with an assessment carried out through a ‘child rights lens’, that is, against the standards of the CRC.

The Committee has made it clear that ensuring children’s rights are respected in law and policy, and implemented at all levels of government, demands a continuous process of child impact assessment to anticipate the impact of any proposed law, policy or budgetary allocation on children and young people and the enjoyment of their rights, and to evaluate the actual impact of implementation.<sup>28</sup> This process should be facilitated at the earliest possible stage of policy development so that policy provisions can be directly aligned to the CRC in a meaningful and concrete way. Child rights impact assessment can be understood as a two-pronged approach; an impact assessment that explores the potential impact(s) of the proposed policy on children’s rights (*ex ante*); and an impact evaluation that assesses the actual impact(s) of the policy on children and young people’s enjoyment of their rights (*ex post*). Both of these phases are equally significant.

The UN Committee has raised concern about the lack of child rights impact assessment mechanisms throughout its concluding observations. It has called on States parties to, firstly introduce a statutory obligation at national and devolved levels to systematically conduct a child rights impact assessment when developing laws and policies affecting children and young people, and secondly, to publish the results of such assessments and demonstrate how they have been taken into consideration in the proposed laws and policies.<sup>29</sup> This can be linked to the principle of mainstreaming, a process by which human rights principles and standards are consistently and systematically integrated into policy and practice. The rationale for such an approach lies in its efficacy as a ‘yardstick’ in determining the extent to which policies promote children’s rights. However, whilst the importance of mainstreaming in the context of children and young people is now commonly highlighted, there is little guidance on what this looks like in practice.<sup>30</sup>

As noted, policy in some countries is formally scrutinised with respect to human rights legislation generally. For example, in Northern Ireland policy is scrutinised against the Human Rights Act and equality obligations emanating from Section 75 of the 1998 Northern Ireland Act, of which ‘age’ is one category. However, no formal system of child rights impact assessment is in place. In other jurisdictions such as Wales, the Rights of Children and Young Persons (Wales) Measure 2011 provides an option for Ministers to use a CRC Impact Assessment Tool to assist them in their duty to have due regard to the CRC; however, this tool in itself is not statutory. Nonetheless, research indicates that between 2012 and 2017, 260 child rights impact assessments were carried out and have more recently continued to grow.<sup>31</sup> Elsewhere, child rights impact assessments appear to be a one off exercise – for example, a child rights and well-being impact assessment was carried out in relation to the debate around the minimum age of criminal responsibility in Scotland in 2016. There are some good examples

of child rights impact assessments being placed on a statutory footing outside the UK. For example, in 1999, the Swedish Parliament passed a Government Bill concerning a national child rights strategy which specified that all Government decisions affecting children are to be subject to child impact assessments, while in Belgium, a system of child impact assessment was introduced in the Flemish Community in 1997 via an Act of the Flemish Parliament.<sup>32</sup> These examples are however, restricted to policies that are perceived to have a direct impact on children and young people. They also tend to be *ex ante* rather than *ex post*.

In addition to increasing the visibility of the CRC in public policy, the process of undertaking child rights impact assessment can in itself contribute to the capacity building of duty-bearers and policymakers. Nonetheless, a meaningful child rights impact assessment requires awareness-raising and training on the CRC and a child rights-based approach to public policy for duty-bearers before the process begins. This is of particular importance where the link between the policy area to be assessed and the CRC may not appear immediately or directly relevant – for example, the environment or transport.

Child rights impact assessment, by its nature, should allow consideration to be given to any discriminatory impact between different groups of children and young people and for these to be subsequently addressed. This can be difficult to achieve. An evaluation of the Welsh model indicated that in some cases the discriminatory impact of a proposal on particular groups of children had been overlooked and that greater guidance was needed for duty bearers in this regard.<sup>33</sup> Effective evaluation or monitoring of the actual impacts of policy implementation requires good baseline and follow up data. This data should have the ability to be disaggregated to enable identification of discrimination and disparities in the realisation of rights.<sup>34</sup> Seeking

the views of children and young people in determining the range of potential and/or actual impacts is also critical, as the following section highlights.

### ***Participation***

The third element of the statement of common understanding of rights-based approaches is that whatever the actions being undertaken, they should enable ‘rights-holders’ to claim their rights.<sup>35</sup> A crucial dimension of this is that they understand their rights. Another is that they have opportunities to be involved in influencing the decisions that will impinge on their lives, including public policy. Article 12 of the CRC requires that children and young people’s views are sought and taken seriously in all matters affecting them. One consequence of this is that, for a policy to be children’s rights-based, children and young people should be involved in its development. However, before discussing why and how this should occur, it needs to be noted that the right to be heard should also be included and promoted in the substantive content of policies affecting children. For example, in family life and other major areas of public policy, the Committee has recommended that: ‘states parties should encourage, through legislation *and policy*, parents, guardians and childminders to listen to children and give due weight to their views in matters that concern them’.<sup>36</sup> Childhood policy should routinely underscore children and young people’s entitlement to be heard in all matters affecting them. A good example of this is in Ireland’s National Child Participation Strategy (2015) which has attempted to mainstream children’s participation in every government department and agency.<sup>37</sup>

The second dimension of participation is that children and young people should be included in the policy process. Modern policy-making often emphasises stakeholder-engagement. It is now widely accepted that policy-makers should consult with stakeholders on the assumption – which is sometimes challenged - that this will engender more efficient and accountable public service delivery.<sup>38</sup> Children and young people’s participation in policymaking has an additional unique

driver. Article 12(1) of the CRC requires that children's views are given due weight in all matters affecting them in accordance with their age and maturity. Although it has been suggested that this provision was not intended to apply to decisions affecting children as a group, in General Comment no. 12, the Committee on the Rights of the Child reasserted and confirmed that the provision applied to children and young people as a group as well as individuals.<sup>39</sup> It said:

The practice of implementation deals with a broad range of problems, such as health, the economy, education or the environment, which are of interest not only to the child as an individual, but to groups of children and children in general. Consequently, the Committee has always interpreted participation broadly in order to establish procedures not only for individual children and clearly defined groups of children, but also for groups of children, such as indigenous children, children with disabilities, or children in general, who are affected directly or indirectly by social, economic or cultural conditions of living in their society.<sup>40</sup>

The obligation applies to 'all matters affecting children' – not only those connected to their rights. The Committee has listed a huge number of issues on which children and young people can contribute to public decision-making, including education, health, access to justice and care. Children and young people's involvement should, however, not be restricted to children and young people's issues. In fact, the Committee has recommended that 'States parties should carefully listen to children's views wherever their perspective can enhance the quality of solutions.'<sup>41</sup> So, for example, children and young people should be consulted on transport policies, especially as they are more likely to be using public transport than to be pedestrians.

Examples of children and young people's engagement in policy-making have increased significantly since the adoption of the CRC, along with the mechanisms, formal and informal, for including them.<sup>42</sup> Since the CRC was adopted, there have been many advances towards realising children and young people's right to participate in decision-making: most European countries have adopted laws that require children and young people's views to be sought and taken seriously; governments have increasingly taken steps to consult with children and young people in relation to local and national policies; and international agencies, including the EU and Council of Europe, have developed a range of laws, policies and processes related to children's participation.<sup>43</sup>

However, while there are increasing examples of children and young people being involved in public decision-making, significant challenges remain. Participation is not always routine, nor is it always meaningful.<sup>44</sup> Other obstacles that can impede children and young people's right to have their views given due weight are as follows: lack of awareness among adults of the fact that the right exists and is a matter of entitlement rather than an optional aspect of professional activity; lack of awareness among children that they have a right to be heard as well as how to exercise it in ways that ensure they are safe and that their views are taken seriously and lack of equality in access to participation of certain groups of children and young people who may require additional support.<sup>45</sup> Meaningful engagement requires sufficient *time and resources* to ensure that children are able to form and express their views freely, and is seen to be particularly difficult at a time when funding is stretched.<sup>46</sup>

In spite of the challenges, the obligation to involve children and young people remains. Moreover, the benefits of involving children and young people in policymaking are well rehearsed and are, in many respects, the same as those that emanate from the participation of

other stakeholders. Respecting children and young people's views usually leads to better, more relevant decisions for individual children.<sup>47</sup> Meaningful child participation is also a means of making adult decision-makers more accountable and can lead to better, more transparent governance.<sup>48</sup> An additional benefit, even though it is not one that is exclusive to children, is that the process of participation in decision-making builds children and young people's capacity for exercising personal autonomy and for democratic participation, not only in decisions that affect them now, but in those that will affect them in the future.

### ***Public Spending***

Article 4 of the CRC requires that States parties shall undertake such legal, administrative and other measures to the *maximum extent of their available resources* with respect to economic social and cultural rights. However, all rights, including civil and political rights, require resources in order to be implemented. In recognition of this, public budgeting for children's rights has become an international human rights policy priority. It has been the focus of a day of general discussion and resolution of the UN Human Rights Council and a recommendation of the European Commission.<sup>49</sup> The Committee has consistently recommended that States parties develop child budgets as a key aspect of implementation of the CRC and most recently, the Committee has developed a general comment on *Public Budgeting for the Realization of Children's Right (General Comment 19)*. This provides further guidance to governments and other non-state actors as to how to manage public expenditure for children in order to realise the rights of all children.

The General Comment emphasises that there should be policies to support public spending for children. It states that the obligation under Art. 4 of the CRC to undertake 'all appropriate

measures' includes the duty to ensure that: 'Laws and policies are in place to support resource mobilization, budget allocation and spending to realize children's rights'.<sup>50</sup> The Committee also stresses the importance of ensuring that States parties have in place legislation and policies for freedom of information that include, or at a minimum do not exclude, children and child rights advocates from the right to access key budgetary documents such as pre-budget statements, budget proposals, enacted budgets, midterm reports, in-year reports and audit reports.<sup>51</sup> Governments are also required to consider the public budgetary implications at all stages of policy development and implementation, including planning, enacting, executing and follow-up.

A key aspect of a rights-based approach to policy is ensuring that there is transparency in the budget and in particular that the spending that relates to children and young people is identified and publicised. The emphasis on producing 'children's budgets' is intended to demonstrate what the government is allocating and spending on programmes that affect children, as well as the impact of government spending on children. This means that policies should have budget lines attached but that the spending on children and young people should be clear and tracked. There are increasing examples of children's budgeting across the world, notwithstanding the challenges of distinguishing spending on them from spending on their families.<sup>52</sup>

A second requirement is that of sufficiency. The Committee underlines that policies and programmes cannot be implemented without sufficient financial resources being mobilized, allocated and spent in an accountable, effective, efficient, equitable, participatory, transparent and sustainable manner.<sup>53</sup> While few countries have enough resources to do everything that they would want to do in terms of childhood policy and services, it makes sense that there should be sufficient money to do what is actually planned. This is especially important at times



of austerity. Assessing and tracking expenditure is crucial to implementation of the realisation of children's rights.<sup>54</sup> The Committee has stressed that, in times of economic crisis, regressive measures may only be considered after assessing all other options and ensuring that children are the last to be affected, especially children in vulnerable situations. It suggests that governments should demonstrate that such measures are necessary, reasonable, proportionate, non-discriminatory and temporary and that any rights thus affected will be restored as soon as possible.<sup>55</sup>

Finally, children and young people should be involved in budgetary processes.<sup>56</sup> The issue of children and young people's participation in policy development more generally is considered above. Article 12 also applies to the public spending that is an inherent part of public decision-making including policy formation and implementation. The decisions that are made about the resources that are spent on them (or not) clearly affect children and often in very direct ways. Yet, in spite of this additional spur to children and young people's involvement in decision-making, their views are largely absent from these processes. Children and young people rarely initiate the claim for budgetary accountability themselves, either because they do not know that there is an issue affecting them or they do not know how to do so. Moreover, children and young people's involvement in public budgeting, while on the increase, tends not to be systematic; most often it takes place as part of initiatives supported by NGOs rather than embedded in governments and statutory agencies.<sup>57</sup> In practice, children and young people face particular attitudinal barriers when it comes to involvement in the public spending aspects of policy development or delivery due to preconceived notions about their lack of interest or capacity. Yet in a global study of children's views on public spending, the majority of children stated that they would like to be involved and that they would feel comfortable doing so.<sup>58</sup> Examples of children and young people's engagement in participatory budgeting are on

the increase and suggest that they can make valuable contributions to public decision-making, including at a policy level.<sup>59</sup>

### *Partnership*

The concept of joint or partnership working has gained increasing momentum in the bid to address persistent or difficult policy issues.<sup>60</sup> What makes underlined issues ‘difficult’ is that they cut across more than one policy area or departmental remit, and, as such, cannot be considered in isolation. Children and young people, and their families, are one population group for whom lived experiences and emergent issues can be understood as cross-cutting and resistant to neat categorisation. The importance of adopting a holistic approach to children and young people’s lives can be firmly situated within a children’s rights context. As is the case with all human rights, the rights set out in the CRC are considered to be inter-related, indivisible and interdependent.<sup>61</sup> In practice, this means that the enjoyment of one right is often impacted by the fulfilment or denial of another. So, for example, a failure to provide an education which meets the standards of the CRC can have adverse consequences for the child’s right to be safe, to express their views and to be able to access health-care. In view of this, the Committee on the Rights of the Child often emphasises the need for the child’s rights to be considered holistically. For example, in a recent General Comment on the best interests principle, the Committee commented that:

The full application of the concept of the child's best interests requires the development of a rights-based approach, engaging all actors, to secure the holistic physical, psychological, moral and spiritual integrity of the child and promote his or her human dignity.<sup>62</sup>

As part of this, the Committee has consistently encouraged co-ordination and joined up working between central government departments, between central and other levels of government and between Government and civil society. It has said that:

effective implementation of the Convention requires visible cross-sectoral coordination to recognize and realize children's rights across Government, between different levels of government and between Government and civil society - including in particular children and young people themselves. Invariably, many different government departments and other governmental or quasi-governmental bodies affect children's lives and children's enjoyment of their rights. Few, if any, government departments have no effect on children's lives, direct or indirect.<sup>63</sup>

While the Committee has not been prescriptive about the arrangements it considers appropriate for very different systems of government across States Parties, it has recommended that States Parties should review the machinery of government from the perspective of implementation of the CRC in order to secure enhanced co-ordination. In particular it has suggested that a special unit, given high-level authority 'can contribute both to the overall purpose of making children more visible in Government and to coordination to ensure respect for children's rights across Government and at all levels of Government,'<sup>64</sup>

Partnership working is a key mechanism by which the principles and provisions of the CRC can be mainstreamed. The Committee has advised that this applies not only to those

large departments which have a substantial impact on children - education, health or welfare and so on - but right across Government, including for

example departments concerned with finance, planning, employment and defence, and at all levels.<sup>65</sup>

Research suggests that a lack of coordinated partnership working across government departments can be a core barrier to effective government delivery for children in public policy, particularly where this is based solely on goodwill and existing working relationships.<sup>66</sup> There are, however, few specific examples of statutory partnership working in the context of children's rights. One such recent example is the Children's Services Co-Operation Act (2015) in Northern Ireland which places a statutory duty on government departments and agencies to cooperate to improve children's well-being, and whereby the meaning of well-being for the purposes of the legislation extends to ensuring regard is made to the CRC.

The Committee has repeatedly drawn attention to the need for partnership working in particular contexts across its General Comments. For example, in relation to provision for children with disabilities, it has observed that:

Services for children with disabilities are often delivered by various governmental and non-governmental institutions, and more often than not, these services are fragmented and not coordinated which result in overlapping of functions and gaps in provisions.<sup>67</sup>

Partnership working can thus promote greater consistency and a more coherent and holistic approach to policy development and implementation for children and young people. It can allow for a more timely identification of, and response to, support needs; reduce duplication of

policy actions or provisions; enable more efficient use of resources; and ultimately improve children and young people's enjoyment of their rights.<sup>68</sup>

Effective partnership working and coordination necessitates good systems of disaggregated data collection that are shared among those developing and implementing children's rights-based policy, to help identify problems, gaps and to inform all policy development for children and young people.<sup>69</sup> Finally, as noted above, sufficient, transparent and accountable public budgets and expenditure are also critical in facilitating effective partnership working. One such example is the option of pooling budgets, allowing for different agencies or departments to contribute funds for agreed purposes or outcomes. A useful example of this is the aforementioned Children's Services Co-operation Act (2015) in Northern Ireland which includes an enabling power to allow Departments and agencies to pool resources to deliver children's services.

### ***Publicity***

Article 42 of the CRC places an obligation on States parties to make the principles and provisions of the CRC widely known, by 'appropriate and active means', to adults and children and young people alike. While policies are published, usually on government websites, and available to adults as a matter of routine, the same cannot be said for their availability to children and young people. As noted by the Committee, children need to know what their rights are.<sup>70</sup>

We suggest the third element of the statement of common understanding of rights-based approaches; that programme activity facilitates the development of the capacities of 'rights-holders' to claim their rights, necessitates awareness of how these rights are being implemented and of the policies or mechanisms that have been put in place to facilitate this. This is critical,

as not all children impacted by a policy will necessarily be directly involved in its development, no matter how inclusive that stage of policymaking has been.

The requirement to publicise policy is an important element of policy processes. Child friendly versions of policy consultation documents are not always produced and are rarer still when the topic under consideration is not deemed to be directly relevant to children and young people. In some instances, engagement and dissemination of information is restricted to a small number of one-off events in contrast to detailed documentation that is available to adults to access at a time of their choosing and as many times as they wish.<sup>71</sup> Moreover, where consultation documents are available in a child friendly format at consultation stage, these may not be amended to reflect changes as a result of consultation, as usually occurs in the case of the adult version. Published policies may not be available in a way that takes account of the differing ages of children, or different needs in the case of children with disabilities.<sup>72</sup> For example, a policy may be translated into a single age-appropriate version for children and young people that is intended to encompass a very wide age range. This can risk over-simplifying key messages and/or critical policy messages may become lost in translation, subsequently undermining children and young people's knowledge of the types of actions that are being taken to realise their rights.<sup>73</sup> Moreover, Government websites displaying such information tend to be adult-centric and difficult to navigate.

Such challenges may be indicative of a perceived inadequacy felt by policymakers in skills to publicise their work in a child-friendly manner. There are various examples suggesting that such fears may in fact be unfounded and that what is key is a willingness to engage and also to involve children and young people in the authorship of such materials. Indeed, the availability of a child-authored version of the Committee on the Rights of the Child's 2016 General

Comment on Public Budgeting is indicative of the high-level emphasis on raising awareness of policy issues impacting on children and young people with children and young people themselves.<sup>74</sup>

Publicising policies that impact on children and young people, directly and indirectly, can help increase their visibility in and across government policy, and subsequently of their rights among policymakers and the general public. Thus the process of doing so, as noted earlier, can be as important as the final outcome or product. Policies should be produced in a way that is reflective of the diversity of the child population and that reflects different needs (for example, an easy read version for children with intellectual disabilities). It is also important that monitoring and evaluation of public policy is publicised in a way that is accessible to children and young people so that they are aware of what their rights are, the actions being taken to realise these rights, and finally, the extent to which these actions are in fact realizing their rights, the gaps, and how these can be addressed.

## **Conclusion**

Governments have committed to making and implementing policies that align with the CRC. Yet, in spite of significant guidance from the Committee on the Rights of the Child as to what that entails, we suggest that there is still limited understanding about what distinguishes rights-based policy from childhood policy more generally. We have proposed a framework for understanding children's rights-based approaches to policy based on six concepts: *principles*, *process*, *participation*, *partnership*, *public spending* and *publicity*. While these are not always particular to a rights-based approach (other than the use of the CRC principles which is, of course, unique to a child rights approach), there are some distinctive features when these are

viewed and implemented from the perspective of children’s rights. These are summarised in Table 1 below.

	<b>General Approach to Childhood Policy</b>	<b>Child Rights-Based Approach</b>
<b>Principles</b>	<ul style="list-style-type: none"> <li>• No reference or very limited reference to CRC</li> <li>• Articles of CRC not explicit</li> </ul>	<ul style="list-style-type: none"> <li>• Explicit and consistent reference to CRC</li> <li>• Policy aligned to CRC standards</li> </ul>
<b>Process</b>	<ul style="list-style-type: none"> <li>• No impact assessment</li> <li>• Impact assessment but not aligned to rights</li> </ul>	<ul style="list-style-type: none"> <li>• Child rights impact assessment on potential impacts.</li> <li>• Child rights impact evaluation on actual impacts.</li> </ul>
<b>Participation</b>	<ul style="list-style-type: none"> <li>• May not involve children and young people in development and implementation</li> <li>• Involvement of children and young people may not be meaningful.</li> </ul>	<ul style="list-style-type: none"> <li>• Children and young people involved in development and implementation.</li> <li>• Children and young people’s views given due weight.</li> </ul>
<b>Partnership</b>	<ul style="list-style-type: none"> <li>• Unclear structures for partnership working.</li> <li>• Silo working.</li> </ul>	<ul style="list-style-type: none"> <li>• Clear structures and oversight mechanisms.</li> <li>• Holistic approach</li> </ul>
<b>Public Spending</b>	<ul style="list-style-type: none"> <li>• Spending on children and young people is subsumed within headings of expenditure generally or within the family unit.</li> <li>• Children and young people are not involved in decision-making around spending</li> </ul>	<ul style="list-style-type: none"> <li>• Spending on children and young people is explicit.</li> <li>• Children and young people are involved in decision-making around spending</li> </ul>
<b>Publicity</b>	<ul style="list-style-type: none"> <li>• Only adult versions of consultation documents and/or final policies available.</li> <li>• One size fits all approach to ‘child friendly’ policy</li> </ul>	<ul style="list-style-type: none"> <li>• Age appropriate version.</li> <li>• Accessible to range of groups of children and young people.</li> </ul>

These features of rights-based policy may distinguish it from childhood policy-making more generally. However, ‘child’ can be readily substituted for ‘human’ and the implications would



be largely the same; these 6 Ps could also be applied readily to inform human rights-based policymaking. For example, a human rights-based approach to policymaking in the context of disability would necessitate not only that international human rights standards are used to inform substantive content, but that: a disability rights-impact assessment is conducted; people with disabilities are meaningfully involved in policy development and implementation and are able to express their views using their preferred mode of communication or support; a holistic and coordinated approach is taken to realising their rights with clear oversight; spending on people with disabilities is explicit (and not confined to disability supports in the context of health or social care), and they are involved in decisions about spending; and finally, that policies are publicised through a range of accessible formats. International human rights standards, for children and young people and others, not only provide a normative framework that can guide the substance of social policy but they also provide guidance on process – one that emphasises participation, transparency and accountability. Thus rights-based approaches offer an approach to policy development and implementation that should foster good policy-making generally.

Rights-based approaches allow globally accepted standards to be translated and adapted to local contexts in a structured manner. The CRC does not exist in isolation from policy processes or the daily dilemmas inherent in policy processes. Both the Committee and policymakers within governments seek to address critical social and structural issues of our time. Indeed, it is through concluding observations and general comments that the former has sought to do so. A children's rights-based approach to public policy can act as a singular vehicle for a more comprehensive, holistic, engaged and measured approach to multi-faceted policy issues. When applied consciously and appropriately, a child rights-based approach offers potential for a nuanced and participative approach to the development and implementation of policy solutions; one that

recognises and is grounded in direct dialogue and knowledge exchange between duty-bearers and rights-holders. Such an approach allows a focus to be had, not only on improving outcomes for children and young people, but also on ensuring that those outcomes are aligned with and contribute to the parallel (and often overlapping) quest of realising the rights of all children and young people.

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<sup>1</sup> The United States of America has not yet ratified the CRC.

<sup>2</sup> Article 4, United Nations Convention on the Rights of the Child (1989).

<sup>3</sup> UN Committee on the Rights of the Child. *General Comment no.19 on Public Budgeting for the Realization of Children's Rights* (Art.4), CRC/C/GC/19 (2016) para. 4.

<sup>4</sup> UN Committee on the Rights of the Child, *General Comment no.5 General Measures of Implementation* CRC/GC/2003/1. For further discussion of the General Comments see Tara Collins (this edition).

<sup>5</sup> Laura Lundy and, Lesley McEvoy, 'Childhood, the United Nations Convention on the Rights of the Child and research: what constitutes a 'rights-based' approach?' in *Law and childhood: Current Legal Issues*, ed. Michael Freeman (Oxford: Oxford University Press, 2012), 14: 75-91.

<sup>6</sup> UN Development Group, *The Human Rights-based Approach to Development Cooperation: Towards a Common Understanding among the UN Agencies* (2003).

<sup>7</sup> UN Committee on the Rights of the Child, *General Comment no.5*.

<sup>8</sup> See Kay Tisdall et al, this edition.

<sup>9</sup> See Simon Hoffman, this edition.

<sup>10</sup> Laura Lundy, 'United Nations Convention on the Rights of the Child and Child Well-being'. In *Handbook of child well-being*, ed. Asher Ben-Arieh (Netherlands: Springer, 2014) 2439-2462.

<sup>11</sup> UN Development Group, *The Human Rights-based Approach to Development Cooperation*, 1.

<sup>12</sup> Michael Freeman, 'The Future of Children's Rights', *Children and Society* 14 no. 4 (2000): 277.

<sup>13</sup> Bronagh Byrne, 'Minding the Gap: Children with Disabilities and the United Nations Convention on the Rights of Persons with Disabilities', in *Law and childhood: Current Legal Issues*, ed. Michael Freeman (Oxford: Oxford University Press, 2012), 14: 419-437; Ursula Kilkelly and. Laura Lundy, 'The Convention on the Rights of the Child: its use as an auditing tool', *Child and Family Law Quarterly*, 18, no. 3 (2006): 331.

<sup>14</sup> Phillip E. Veerman, 'The Ageing of the UN Convention on the Rights of the Child'. *The International Journal of Children's Rights* 18 no. 4 (2010): 585.

<sup>15</sup> Karl Hanson and, Laura Lundy, 'Does Exactly What it Says on the Tin?' *The International Journal of Children's Rights* 25 no. 2 (2017): 285.

<sup>16</sup> Laura Lundy, Ursula Kilkelly, and, Bronagh Byrne, 'Incorporation of the United Nations Convention on the Rights of the Child in Law: A Comparative Review', *The International Journal of Children's Rights* 21 no. 3(2013): 442. See also Ursula Kilkelly (this edition)

<sup>17</sup> Hanson and Lundy, *Does Exactly What it Says on the Tin?*

<sup>18</sup> Laura Lundy, 'Children's rights and educational policy in Europe: The implementation of the United Nations Convention on the Rights of the Child', *Oxford Review of Education* 38 no. 4(2012): 393

<sup>19</sup> Bronagh Byrne and, Laura Lundy, 'Reconciling Children's Policy and Children's Rights: Barriers to Effective Government Delivery', *Children and Society* 29, no. 4 (2015): 266

<sup>20</sup> Ibid.

<sup>21</sup> New Zealand Government, *The White Paper for Vulnerable Children* (2012).

<sup>22</sup> Welsh Government, *Programme for Children and Young People*, Empowering Children and Young People Branch Fairer Futures Division (2015); Flemish Parliament. *Flemish Action Plan for Children's Rights 2011-2014* ('Vlaams Actieplan Kinderrechten' (VAK)(2011).

<sup>23</sup> UN Committee on the Rights of the Child, *General Comment no.5*.

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- <sup>24</sup> Jane Williams, *The UNCRC in Wales*, ed. (Cardiff: University of Wales Press, 2015); Bronagh Byrne, Siobhan McAlister and Katrina Lloyd, *Evaluation of Unicef UK Child Rights Partners Programme*, (London: Unicef UK, 2017).
- <sup>25</sup> Paul Hunt and Gillian MacNaughton, *Impact Assessments, Poverty and Human Rights: A Case Study Using The Right to the Highest Attainable Standard of Health*, UNESCO 2006; Anna Datta and Justin Frewen, 'The importance of gender-proofing government policies to ensure they do not negatively impact upon women's mental health inequalities'. *European Psychiatry* 27 no. 1 (2012): 1461; John Glasson, Riki Therivel and, Andrew Chadwick, *Introduction to Environmental Impact Assessment*. 4<sup>th</sup> ed. (Oxon: Routledge, 2012).
- <sup>26</sup> Nic Mason and Kirsten Hanna, *Undertaking Child Impact Assessments in Aetearoa New Zealand local authorities: evidence, practice, ideas*, (New Zealand: Auckland University of Technology, 2009).
- <sup>27</sup> For further discussion of CRIAs see article by Lisa Payne, this edition.
- <sup>28</sup> UN Committee on the Rights of the Child, *General Comment no.5*, 35.
- <sup>29</sup> See for example, UN Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*, CRC/C/GBR/CO/5 (2016) 9.
- <sup>30</sup> Eleanor Drywood, 'Child-proofing' EU law and policy: interrogating the law-making processes behind European asylum and immigration provision', *International Journal of Children's Rights* 19 (2011): 405.
- <sup>31</sup> Lisa Payne, *Child Rights Impact Assessment (CRIA): A review of comparative practice across the UK*, (London: UNICEF, 2017).
- <sup>32</sup> Lundy, Kilkelly and Byrne, *Incorporation of the United Nations Convention on the Rights of the Child in Law*.
- <sup>33</sup> Simon Hoffman, *Evaluation of the Welsh Government's Child Rights Impact Assessment procedure under the Children's Rights Scheme pursuant to the Rights of Children and Young Persons (Wales) Measure 2011*, (Swansea: Wales Observatory on Human Rights of Children and Young People, 2015).
- <sup>34</sup> UN Committee on the Rights of the Child, *General Comment no.5*, 48.
- <sup>35</sup> UN Development Group, *The Human Rights-based Approach to Development Cooperation*, 1.
- <sup>36</sup> UN Committee on the Rights of the Child, *General Comment no.12 on the Right of the Child to be Heard*, CRC/C/GC/12 (2009), 92.
- <sup>37</sup> Department of Children and Youth Affairs, *National Strategy on Children and Young People's Participation in Decision-making, 2015 – 2020*. (Dublin: Government Publications, 2015).
- <sup>38</sup> Marian Barnes, Janet Newman and, Helen Sullivan, *Power, participation and political renewal: Case studies in public participation*, (Bristol: Policy Press, 2007).
- <sup>39</sup> Nigel Cantwell, 'Are Children's Rights still Human?' in Jane Williams, and Antonella Invernizzi, eds., *The Human Rights of Children: From Visions to Implementation*, (London: Routledge, 2011): 37-59.
- <sup>40</sup> UN Committee on the Rights of the Child, *General Comment no.12*, 97.
- <sup>41</sup> *Ibid*, 27.
- <sup>42</sup> Tali Gal and Benedetta Faedi Duramy, *International perspectives and empirical findings on child participation: From social exclusion to child-inclusive policies*, (Oxford: Oxford University Press, 2015).
- <sup>43</sup> Laura Lundy and Helen Stalford, *Children's Rights and Participation: Background Paper for Eurochild*, Eurochild 2013.
- <sup>44</sup> Gal and Durami, *International perspectives and empirical findings on child participation*.
- <sup>45</sup> Laura Lundy, 'Voice is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child', *British Educational Research Journal*, (2007): 927; Karen Orr, Lesley Emerson, Laura Lundy, Erika Jimenez, and Lucy Royal-Dawson, *Enabling the Exercise of Civil and Political Rights: The views of children*, Save the Children, 2016. Accessed at <https://resourcecentre.savethechildren.net/library/enabling-exercise-civil-and-political-rights-views-children>; Gerison Lansdown, *Every Child's Right to be Heard: a resource guide on the UN Committee on the Rights of the Child General Comment No. 12* (London: Unicef and Save the Children, 2011).
- <sup>46</sup> Kay Tisdall, 'Addressing the challenges of children and young people's participation: considering time and space' in Tali Gal and Benedetta Faedi Duramy, eds., *International Perspectives and Empirical Findings on Child Participation: From Social Exclusion to Child-Inclusive Policies*, (Oxford: Oxford University Press, 2015): 381-403.
- <sup>47</sup> Lansdown, *Every Child's Right to be Heard*.
- <sup>48</sup> Lena Thu Phuong Ngyuen, *Child Responsive Accountability: Lessons from Social Accountability*. UNICEF Office of Research. 2013.
- <sup>49</sup> UN Human Rights Council *Rights of the child: towards better investment in the rights of the child*, A/HRC/28/L.28, (2015); European Commission, *Investing in children: breaking the cycle of disadvantage*, Commission Recommendation of 20.2.2013.

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- <sup>50</sup> UN Committee on the Rights of the Child, *General Comment no.19 on Public Budgeting for the Realization of Children's Rights (Art.4)*, CRC/C/GC/19 (2016) 21.
- <sup>51</sup> Ibid, 55.
- <sup>52</sup> Chelsea Marshall, Laura Lundy and, Karen Orr, *Child- Participatory Budgeting: A Review of Global Practice*. (Plan International, 2016); Debbie Budlender and, Paula Proudlock, *Are children's rights prioritised at a time of budget cuts? Assessing the adequacy of the 2013/14 social development budgets for funding of Children's Act services*, University of Cape Town: Children's Institute, 2009).
- <sup>53</sup> UN Committee on the Rights of the Child, *General Comment no.19*, 11.
- <sup>54</sup> Aoife Nolan, (2013). 'Economic and Social Rights, Budgets and the Convention on the Rights of the Child', *The International Journal of Children's Rights* 21, no. 2 (2013): 248.
- <sup>55</sup> UN Committee on the Rights of the Child, *General Comment no.19*, 31.
- <sup>56</sup> Ibid.
- <sup>57</sup> Marshall, Lundy and Orr, *Child- Participatory Budgeting*.
- <sup>58</sup> Orr, Emerson, Lundy et al, *Enabling the Exercise of Civil and Political Rights*.
- <sup>59</sup> Marshall, Lundy and Orr, *Child- Participatory Budgeting*.
- <sup>60</sup> For a discussion on policy networks see article by Tisdall et al., this issue.
- <sup>61</sup> The World Conference on Human Rights, *UN Vienna Declaration and Programme of Action*, A/CONF.157/23 (1993).
- <sup>62</sup> UN Committee on the Rights of the Child, *General Comment no.13 on the right of the child to have his or her best interests taken as a primary consideration*, CRC/C/GC/13 (2013) 2.
- <sup>63</sup> UN Committee on the Rights of the Child, *General Comment no.5*, 27.
- <sup>64</sup> Ibid, 37.
- <sup>65</sup> Ibid.
- <sup>66</sup> Byrne and Lundy, *Reconciling Children's Policy and Children's Rights*.
- <sup>67</sup> UN Committee on the Rights of the Child, *General Comment no.9, on the rights of children with disabilities*, CRC/C/GC/9 (2007) 21.
- <sup>68</sup> Bronagh Byrne, Lisa Katrina Maguire and, Laura Lundy, *Reporting on Best Practice in Cross-departmental Working Practices for Children and Young People*. (Belfast: Northern Ireland Commissioner for Children and Young People, 2016).
- <sup>69</sup> UN Committee on the Rights of the Child, *General Comment no.5*, 48.
- <sup>70</sup> Ibid, 66.
- <sup>71</sup> Chelsea Marshall, Bronagh Byrne and Laura Lundy, 'Face to face: children and young people's right to participate in public decision-making', in *International Perspectives and Empirical Findings on Child Participation: From Social Exclusion to Child-Inclusive Policies*, Tali Gal and Benedetta Faredi Durami, eds. (Oxford: Oxford University Press) 357-380.
- <sup>72</sup> Bronagh Byrne and, Laura Lundy, *Barriers to Effective Government Delivery for Children in Northern Ireland*, (Belfast: Northern Ireland Commissioner for Children and Young People, 2011).
- <sup>73</sup> Ibid.
- <sup>74</sup> Save the Children *UN Committee on the Rights of the Child, General Comment no. 19, Child-Friendly Version*, (2016)  
accessed at <https://resourcecentre.savethechildren.net/library/uncrc-general-comment-no-19-2016-public-budgeting-realization-childrens-rights-art-4>