Child Rights Impact Assessment: A Tool to Focus on Children

Prepared to highlight insights from Bringing Children in from the Margins: Symposium on Child Rights Impact Assessment, *14-15 May, Ottawa, Canada.*

Introduction

Bringing Children in from the Margins was the theme of a symposium[1] on the use of Child Rights Impact Assessments, convened in Ottawa, Canada on May 15 and 16, 2013. Children were at the centre of intense discussions about the potential for using Child Rights Impact Assessments (CRIA) to improve implementation of children's rights and the well-being of children. More than 150 experts and enthusiasts gathered to learn more about CRIA, exchange lessons from experiences around the globe and discuss the merits of using CRIA to advance fulfillment of the rights of children. Twenty-nine speakers shared their expertise; different perspectives included voices from governments, academic researchers and advocacy groups; and experiences in different contexts provided a rich basis for discussion. This report provides a non-exhaustive summary of common themes.

Summaries of the panel and workshop presentations, biographies of the speakers, copies of Power Point presentations, and the Discussion Paper that informed the conference, are available at: www.unicef.ca/childimpactsymposium and www.ccrc.ca.

1. GENERAL THEMES ABOUT THE USE OF CHILD RIGHTS IMPACT ASSESSMENT

Following are general themes that emerged from the wide variety of experiences with CRIA:

Stronger Focus on Children in Policy Development

Using a CRIA process strengthens the focus on children in a policy development process and in other contexts where it is used. Children's interests and impacts are often ignored or assumptions are made about them in decision-making processes designed for adults.

Even when recommendations of a CRIA are not implemented, the process raises awareness about children and children's rights.

Improving Life for Real Children

CRIA and discussions about them can focus on conceptual and technical matters, with limited connection to the daily lives of children. As one speaker noted, it is easier to deal with children in the abstract than with real children. The measure of success cannot be the quality of a CRIA report or completion of a

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[1] The symposium was convened by UNICEF Canada, the Canadian Coalition for the Rights of Children, the University of Ottawa and the Office of the New Brunswick Child and Youth Advocate.

technical requirement. Success should be measured by improvements in the daily lives of children that result from better decisions because they were informed by CRIA.

One Tool in a Toolbox for Children's Rights

CRIA is one tool in the toolbox of methods to advance children's rights. It is an important one. It can be an effective one. Success is more likely when CRIA complement other measures and systems in place to advance the rights of children. Using CRIA by itself is unlikely to be sufficient to advance children's rights and it can become a formulaic process with limited real change.

The Convention on the Rights of the Child as Framework for Child Rights Impact Assessment

The Convention on the Rights of the Child provides a useful, comprehensive framework for undertaking CRIA. There is a significant difference between a needs-based child impact assessment and a rights-based approach that uses the Convention as a framework for analyzing the presenting issues and options for addressing them. Using all the provisions in the Convention as a reference guide can help to identify unintended consequences and ensure that measures to protect one right do not infringe on other rights, and that the distributional impacts on different groups of children are considered. The aspirational nature and comprehensive scope of the Convention can also help to enhance proposed policies so that they more fully fulfill the rights of children.

Clear Terms of Reference

CRIA can take different forms and be used at different times, for different purposes, by different actors – with a number of common elements. They provide an organized way to analyze the potential impacts of any proposal under consideration for fulfillment of the rights of children. There is not one way to approach or undertake a CRIA. Flexibility is an asset, but it means careful preparation is needed in each situation. (Examples of different CRIA processes are cited in the presentations available on the website.)

For each CRIA, it is important to develop clear terms of reference, clear expectations, details of the process to be followed, identification of persons responsible for each stage in the process, and a plan for follow-up and evaluation.

With careful planning and execution, the process undertaking a CRIA can be useful in itself. The process raises awareness about impacts for children and children's rights, whether or not the final report influences the final policy decision. As practitioners use CRIA, they increase their knowledge of children

and children's rights making it more likely that these will be considered in the policy or program development process.

Conditions for Success

Common conditions for success in undertaking CRIA emerged from experiences in a wide variety of contexts. It is worth noting that the conditions for success for using CRIA to advance children's rights are similar to the conditions for using other tools. On the positive side, the use of one tool can strengthen the conditions of success for others; they complement and reinforce each other to advance children's rights. On the other hand, it cannot be assumed that CRIA will work when other tools are not working. Attention is needed to build the conditions of success, which include the following factors:

- awareness of children's rights and commitment to treating children as persons with rights;
- understanding the Convention on the Rights of the Child and the obligations of duty-bearers in its implementation;
- training of public officials, political leaders and service-providers in application of children's rights;
- adequate resources – human, financial and time – to fulfill the terms of reference for any given CRIA process, either on a systemic basis or for a specific initiative;
- commitment by decision-makers to take the CRIA process and its outcomes seriously;
- access to data or ability to gather relative data; and
- participation by children in policy formation processes, including CRIA.

Child Rights Impact Assessment Informs Value Judgements

While CRIA provide a detailed, substantive analytical basis for making decisions, they are not purely scientific or totally objective. CRIA reports will reflect value judgments of the participants in the process and recommendations can be contested, particularly in relation to priorities for action. Even when outcomes are contested, CRIA provide a basis for more well-informed dialogue and discussion about issues affecting children. They also demonstrate that decision-makers are exercising due diligence in fulfillment of their obligations to children.

Effectiveness of Child Rights Impact Assessment

The question of the effectiveness of CRIA processes to achieve meaningful change in the lives of children was raised repeatedly during the conference, without a firm conclusion.

Since the mid-1990s, CRIA have been used regularly in two countries and on an occasional basis in others. In a number of jurisdictions it is a very new process.

Therefore, there is not a substantive body of evaluative research at this time. Two review projects – one of 22 CRIA in the United Kingdom and one of 19 CRIA in Flanders, Belguim - provide evidence that some amendments were made to proposed legislation as a result of CRIA and that the interests of and impacts on children received greater attention in the policy process. There was no available documentation of changes in the real-life outcomes for children.

The only Canadian example, at the provincial level, presently is the CRIA process in place in New Brunswick. All legislation and policy proposals must undergo a CRIA before being brought to Executive Council. The New Brunswick government is instituting a measurement system to assess the effectiveness of this tool, and it is possible that evaluative research will be made public in the future.

Evidence from using CRIA on specific issues, such as organ donation in Wales and welfare reform in Northern Ireland, illustrates heightened awareness of impact for children. Experience at the level of local government in Aukland, New Zealand and Edmonton, Canada illustrate specific changes in opportunities for children as a result of CRIA-like exercises that draw attention to children's issues within municipal government.

More research is needed to firmly establish the link between using CRIA and real-life improvements for children. Experience in different contexts suggests that using CRIA for issues that are not seen as children's issues is helpful to draw attention to indirect impacts that might otherwise be ignored. For child-focused policies, CRIA that use the Convention as a framework have enhanced policy analysis and the positive impact of policies, as illustrated by the use of CRIA in the Welsh Assembly Government.

In situations where governing bodies do not use CRIA or ignore the findings, they can be effective tools for advocacy by non-government groups, and thereby have an indirect impact for children.

Child Rights Impact Assessment for Public Advocacy

While CRIA are mostly – and optimally - done within government policy-making processes, they can also be undertaken by statutory authorities and agencies, independent statutory bodies such as Children's Commissioners, and other advocates outside of government as a tool to advocate for children's rights. They can be useful for advocacy on a particular issue, such as welfare reform, or inclusion of children's rights in regular governing processes, such as budgeting.

2. LESSONS ABOUT THE CHILD RIGHTS IMPACT ASSESSMENT PROCESS

While the processes used for CRIA vary, following are some common lessons from past experience that are useful for the future uses of CRIA.

Multiple Stages

Experience shows the benefits of a multi-staged approach to CRIA. Typical stages include: (1) initial screening to determine the need for and scope of a CRIA; (2) clarification of the problem and objective of the proposal, and possible options for addressing them; (3) data-gathering, analysis and consultation with young people and civil society, as appropriate; (4) development of recommendations for decision-makers; and (5) plans for follow-up and evaluation.

Templates and Checklists

Significant effort has gone into developing templates for undertaking CRIA. Some examples are available through references in symposium presenters' Power Point presentations on the website. Some are designed to be simple for easy use while others provide a guide for detailed analysis. Some help to apply the Convention as a framework for analysis. Templates can help to guide users through a step-by-step process.

While templates can be useful, one strong caution was to avoid a checklist approach. Checklists tend to reduce the process to a technical, formulaic one that cannot address issues in depth, often miss indirect impacts and possible unintended consequences, and have limited impact on raising awareness of children's rights.

Conference participants also learned about the limitations of using selected indicators to measure progress in achieving rights. As explained by those with experience in poverty impact assessments, improvement in select indicators may not be an accurate reflection of improvements in the real lives of poor people that are affected by a complex web of factors. Gathering evidence from lived lives provides a much richer set of data for analysis of impacts and options that are likely to result in sustainable solutions.

Options for Addressing Identified Issues

Greater clarity about the issues facing children is one value of using CRIA. CRIA processes that included a consideration of different options for addressing the identified issues were more effective than those that could only consider the

impacts of one proposed solution. In some cases, better solutions have been found than the initial proposal that launched the CRIA.

Early in Decision-making Process and Follow-up Later

Using CRIA early in a decision-making process was preferred because it can provide a robust analysis of the issues being addressed and it can identify different options for solutions before one option has been advanced. The likelihood of influencing a proposed policy is usually greater in the early stages. Early use can also help to avoid unintended consequences.

Another point where CRIA can be useful is the start of implementation of a policy or program that impacts children. If used at that point, the focus is improved implementation for various groups of children in their specific contexts.

Follow-up and evaluation were also highlighted as important steps in the use of CRIA. Examples were given of evaluations that showed the accuracy of the predicted impacts, thereby reinforcing the value of doing CRIA. In other cases, adjustments in implementation resulted from a review of the CRIA a few years after implementation.

Integration, Transparency and Commitment

CRIA that are built into the policy-making process are more likely to impact the design of policy or programs for children. A critical factor is a high level of commitment by senior officials or political leaders who are involved in the final stages of decision-making. In Wales, for example, the state's legal framework mandates all cabinet ministers to pay "due regard" to the Convention; CRIA are used as a tool for cabinet ministers to pay "due regard" and demonstrate to their cabinet colleagues and the public how they have done so.

Reports of CRIA used by policy analysts inside governing bodies often include an explanation that an internal process allowed more openness by officials than would be possible if the report was public. While transparency is preferred, public release can lead to a more formulaic application of CRIA that does not explore issues and options in depth. However, if CRIA recommendations are ignored and the CRIA becomes a public document, changes can and have resulted from outside pressure, based on CRIA findings. In some cases, a summary of CRIA is published for public consumption.

When independent children's advocates do the CRIA, they are more often public documents, which can then also be used by child rights advocates outside of the government.

3. TENSIONS IN THE USE OF CHILD RIGHTS IMPACT ASSESSMENT

Following are some factors to be considered in the choice to use CRIA:

Systemic Approach or Pilot Projects

There are advantages to integrating CRIA into the systematic policy formation processes of a government, preferably with a legislative mandate and a high level of commitment by political leaders and senior officials within the various government departments. Active participation by children and community groups can be structured into a systematic CRIA process. When CRIA is part of the system, there is a risk that it becomes just another requirement to be fulfilled with a minimum amount of effort, limited impact on the policy outcomes and often no transparency. In some cases, the CRIA becomes part of public documentation for proposed legislation or a new policy; in others it is part of the information that goes to cabinet meetings or other senior level policy-making fora without becoming public.

A pilot or demonstration project can show the value of CRIA and build support for wider use. Using CRIA for one initiative can also help to develop context-appropriate methods as a step on the way to more systemic use. It was noted that CRIA can be particularly helpful for proposals that are not readily identified as children's issues but have impacts for children. Examples are using CRIA to analyze the potential impacts for children of organ donations, and the public marches by Catholics and Protestants during the conflict in Northern Ireland. It was also noted that it might be easier to build support for a pilot project than for systemic inclusion of CRIA in a context where children's rights are not well recognized.

Child Rights Impact Assessment and Other Impact Assessments

Impact assessment fatigue was repeatedly named as a concern within governing bodies.

Adding CRIA to requirements for environmental, gender, health, privacy, equality, quality of life, or other impact assessments is often critiqued as an excessive administrative burden. One jurisdiction noted that officials already had to examine policies through nine different lenses, causing unreasonable delays and complications in the policy development process.

It can be argued, however, that children are the most vulnerable group of citizens with the least voice in public policy and therefore should be a high priority for impact assessment.

If there is no CRIA, it may be possible to add the components of a CRIA to other impact assessment processes. One option is specific analysis of the impacts for children in the domain being assessed, because impacts for children are often different than those for adults.

When there are several impact assessments as part of a policy development process, it is important to co-ordinate them to ensure an efficient, timely process and prevent either "impact assessment fatigue" or the marginalization of more specific impact processes, such as CRIA.

Governments are also challenged to allocate resources for different impact assessment processes. In some cases this requires setting priorities. In Canada, for example, the federal government has the following: well-developed and well-resourced privacy impact assessments; required but less-resourced sustainable development assessments; a less formal gender assessment process in several departments; and no provision for assessing policies for impact on children. An advocacy point in such contexts may be clarification about the priority of children relative to other factors that are resourced for assessing impacts.

One possibility is the use of a screening process to determine the need for assessing different kinds of impacts and allocating resources to the highest priority areas.

It was noted that a key motivator for CRIA in Aukland, New Zealand, was a political decision to make developing opportunities for children a priority, even in the context of fiscal restraint. That has lead to considering impacts for children in a wide range of urban issues and finding practical options to achieve greater realization of many provisions in the Convention on the Rights of the Child.

Managing Conflicting Rights or Recommendations from Impact Assessments

Recommendations from a CRIA may conflict with other policy objectives and conflicts may emerge between recommendations from various impact assessment processes. If conflicting recommendations cannot be reconciled, then decision-makers will need to establish priorities and choose on that basis. Potential conflicts are not a reason to avoid doing CRIA; even if difficult choices need to be made, the options and implications are more transparent for decision-makers and the public.

During the conference it was also noted that a CRIA process can be useful for conflict resolution. It can be used to clarify and set out the various implications of two positions or parties in conflict, making choices more clear and perhaps identifying space for resolving a conflict.

Child Rights Impact Assessment and Fiscal Constraints

Is it feasible to advance children's rights and the use of CRIA in the context of fiscal constraints that many states now experience? That question was on the minds of many participants. It is precisely in the context of fiscal constraints that some governments have established a strong priority for developing the potential of their children and then used CRIA-like processes to assess policy options to achieve that objective.

Finding resources to pay for CRIA processes can be challenging in the context of fiscal constraints; but it is also the case that using CRIA can result in cost-savings and avoid expenditures that are not cost-effective for advancing the rights and well-being of children. As an example, the Province of New Brunswick in Canada, which is facing serious fiscal challenges, has nonetheless adopted a CRIA process in order to improve the efficacy of governmental decision-making and to avoid costly mistakes.

Concluding Observation

The year 2014 is the twenty-fifth anniversary of the adoption of the Convention of the Rights of the Child. Implementation remains a major challenge. CRIA are one tool for implementation. Gaining momentum since the 1990's, they continue to be a useful tool in a variety of contexts. A common sentiment of conference participants was a desire to expand the use of CRIA and develop a community of learning with a mechanism to share expertise and lessons learned. CRIA can help to put children at the centre of decision-making processes and maximize outcomes that realize their rights.