

**CHILD RIGHTS IMPACT ASSESSMENTS:
THE FUNDAMENTALS**

**Submitted by UNICEF Canada
to the Standing Senate Committee on Human Rights
3 February 2014**

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Introduction

UNICEF Canada is pleased to be here today and to have this opportunity to make a presentation on the immensely important topic of Child Rights Impact Assessments (CRIAs). This is particularly timely since 2014 marks the 25th anniversary of the adoption of the UN Convention on the Rights of the Child (available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>), and we are seeing a growing interest in CRIA in various Canadian jurisdictions.

We have provided you with copies of these speaking points, which should be a useful resource in your work (although we will not be able to address all of these areas in our brief oral remarks), as well as other relevant background documents. A further valuable resource is the UNICEF Canada website that contains useful materials related to the CRIA Symposium, *Bringing Children in from the Margins*, convened at the University of Ottawa in May 2013. In addition to a discussion paper and summary report, summaries of the panel and workshop presentations, including copies of Power Point presentations can be found at <http://www.unicef.ca/childimpactsymposium>.

About UNICEF

The United Nations Children's Fund (UNICEF) works in 190 countries through country programs and National Committees. UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the United Nations Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children.

UNICEF is the world's leading child-focused humanitarian and development agency. Through innovative programs and advocacy work, we save children's lives and secure their rights in virtually every country. Our global reach, unparalleled influence on policymakers, and diverse partnerships make us an instrumental force in shaping a world in which no child dies of a preventable cause. UNICEF is entirely supported by voluntary donations and helps all children, regardless of race, religion or politics. The only organization named in the United Nations Convention on the Rights of the Child as a source of expertise for governments, UNICEF has exceptional access to those whose decisions impact children's survival and quality of life. We are the world's advocate for children and their rights. For more information about UNICEF, please visit www.unicef.ca.

What is a CRIA?

- Impact assessments are not new and are used in a variety of policy domains in Canada, such as environmental protection, health, and privacy. They provide a systematic analysis of potential or realized outcomes of a public policy, a program or project proposal, and other types of decisions.
- A Child Rights Impact Assessment is a tool for assessing the potential impacts of a proposed policy, law, program, or particular decision on children and their rights. The Convention on the Rights of the Child is the framework used to assess these impacts. The impacts revealed can be positive or negative; intended or unintended; direct or indirect; and short-term or long-term. The focus is to understand how the matter under assessment will contribute to or undermine fulfillment of children's rights and well-being – and to be able to maximize positive impacts and avoid or mitigate negative impacts.
- CRIA is an important lens in the decision-making process because children are the largest and most vulnerable group affected by public decisions, and because their interests are often overlooked.

Who can use a CRIA?

- Government at all levels (Primary Duty)
- Parliamentarians (shared duty)
- Independent Provincial/Territorial Child and Youth Advocates
- Other Impact Assessment processes (e.g., in Health and Privacy Impact Assessment)
- Professionals

- Institutions (schools, hospitals)
- Civil society organizations (Federal/Provincial/Territorial)
- The private sector

Why focus on children?

- Children are a highly unique and vulnerable population
- Children have a limited voice in government decision-making and limited access to complaints mechanisms
- Children represent a significant segment of the Canadian population (about 25%) and are impacted differently than adults by the action or inaction of government
- There is no such thing as a child neutral policy. Almost every area of government policy affects children to some degree
- Children can be disproportionately affected by adverse conditions – e.g., the negative effects of poverty upon a child's early years can be much greater than the impacts of poverty in later childhood or adulthood
- Children are among the heaviest users of public services, such as education, health, child-care and youth services, and yet suffer the most from the fragmentation of public policy and services

Why use a CRIA?

- Canada has signed and ratified the Convention on the Rights of the Child and is obligated under international law to implement it. Article 4 requires States to take all appropriate legislative, administrative and other measures to implement the rights which it contains – at all levels of government.
- The rights contained in the Convention, including the right in Article 3 of children to have their best interests treated as a primary consideration in all actions concerning them, give rise to both substantive and procedural obligations. The UN Committee on the Rights of the Child has provided further guidance on the beneficial use of Child Rights Impact Assessments as a means of ensuring that children's interests and needs are considered in any proposed policy, legislation, regulation, budget or other administrative decision which may affect them and the enjoyment of their rights (see General Comment No. 5 (2003) on the *General measures of implementation of the Convention on the Rights of the Child* (pars. 45-47) and General Comment No.14 (2013) on *the right of the*

child to have his or her best interests taken as a primary consideration (par. 99), as well as the 2012 Concluding Observations of the Committee directed to Canada (pars. 34-35)). [All reports of the Committee on the Rights of the Child are available at <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>].

- A survey of literature and experience identifies various benefits to both children and to decision-makers in undertaking a CRIA, including:
 - Making children visible in policy and decision-making processes that affect them
 - Understanding the full range of impacts for children before decisions are made
 - Maximizing positive impacts and avoiding/reducing/mitigating negative impacts for children, including the identification of unintended negative consequences of proposals
 - Determining 'the best interests of the child' through a comprehensive analysis
 - Bringing research evidence and analysis to bear on policy decisions that affect children
 - Bringing consultation with young people, academics and key stakeholders into the assessment process to the extent possible
 - Identifying and addressing factors that have life-long impact for children, including future generations
 - Avoiding/minimizing discrimination and inequitable treatment of different groups of children
 - Considering obligations under the Convention early in the policy formulation process rather than waiting until violations are identified in monitoring reports or challenged in court, and thus avoiding costly mistakes
 - Protecting the integrity of the proposed law or policy against later allegations of Charter and Convention breaches
 - Increasing the legitimacy of and public support for government decisions impacting children through accountability, transparency and the participation of affected youth and other stakeholders
 - Improving cross-departmental government coordination in considering impacts upon 'the whole child'
 - Creating space for substantive dialogue and consideration of conflicting rights claims

How are CRIAs done?

- CRIA processes differ according to subject-matter, context and jurisdiction, but they also share certain characteristics. The formal process often uses a defined model or template and may be accompanied by training resources and a user guide. Some approaches are fairly simple and more pragmatic, while others are more detailed and complicated.
- Most CRIA processes follow a sequential stage process similar to other impact assessments. Steps in the process can include:
 - Initial screening to determine the need for and scope of a CRIA
 - Clarifying the problem and objective of the proposal
 - Identifying different options and alternatives to address the issue
 - Data-gathering and analysis
 - Consulting with young people and other stakeholders, as appropriate
 - Making recommendations to optimize potential beneficial impacts and minimize potential negative impacts
 - Making plans for communication, follow-up and evaluation

Where is CRIA practiced internationally?

There are a growing number of countries around the globe using CRIA processes, including:

- Flanders (Belgium)
- Finland
- Sweden
- Scotland
- Northern Ireland
- Wales
- England
- Australia
- Bosnia-Herzegovina
- USA

What are some examples of CRIA applications in other countries?

Some of the issues addressed through a CRIA internationally include:

- Energy price increases (Bosnia-Herzegovina)
- Moving early childcare services from one department to another (New Brunswick)
- Child benefits reform (England)
- Welfare reform (Northern Ireland)
- Identity cards (England)
- Organ donations (Wales)
- Monitoring convicted child sex offenders (Scotland)
- Lowering the voting age (Scotland)
- Planning transportation routes (Sweden)

What are the challenges to CRIA Implementation?

Concerns relating to CRIA identified in the experience of others include:

- Fear of complicating the policy-making/decision-making process and creating delay
- Impact assessment fatigue
- Sustainability of the commitment to undertake CRIAs as key supporters leave their portfolios over time
- Lack of knowledge about children's rights
- Concern that CRIA will be a drain on human resources and add to workload pressures
- Limited support, advice or training for those responsible for conducting CRIA
- Difficulty in establishing definitive criteria for the fulfillment of children's rights
- Inability to conduct consultations and limited time and resources
- Lack of research to establish the link between using CRIA and real-life improvements for children

What are the factors that contribute to successful CRIA Implementation?

The conditions for success identified in the literature and through experience (many of which were discussed at the CRIA Symposium in Ottawa in May 2013) include the following factors:

- A practical, user-friendly template and toolkit to work through the assessment, including a practical screening procedure
- Clear terms of reference (including 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)
- Embedding the requirement to conduct CRIAs in legislation or policy directives
- An understanding of children's rights and the Convention on the Rights of the Child (which can develop over time with CRIA experience)
- Applying CRIA as one tool in a toolbox of methods to advance children's rights (e.g. to complement other measures and systems in place to advance children's rights)
- Leadership and commitment by decision-makers and policy developers to give higher priority to the rights and well-being of children
- Applying the CRIA process early on in the process before options have been eliminated
- Effective consultation processes (with children and experts)
- Approaching CRIA not as a task, but as a legal and moral obligation
- Avoidance of using a 'tick the box' or checklist approach
- Avoidance of impact assessment fatigue by combining some of the processes, if appropriate
- Good collaborative relationships on the part of government and the Offices of the Provincial/Territorial Child and Youth Advocates
- After-the-fact evaluation of the CRIA process in order to demonstrate utility and motivate continuing improvements and implementation

What has been the Canadian CRIA experience to date?

- Historically, there has been little use of CRIAs within Canada. There have, however, been a few welcome exceptions. At the municipal level, as part of its implementation of the UNICEF Child Friendly City initiative, the City of Edmonton has developed a child impact tool for assessing services to its child residents.
- At the provincial level, there have been exploratory discussions about implementing CRIA between UNICEF Canada and child welfare government officials in Alberta, Ontario and Saskatchewan.
- The greatest use of CRIA at the provincial level has taken place in New Brunswick where it has been mandatory since February 23, 2013 to complete a CRIA and attach it

to a Memorandum to Executive Council (MEC) whenever a proposed law, regulation or policy is being considered by Cabinet from any provincial government department.

What are the lessons learned from the New Brunswick CRIA experience that could be applied in other parts of Canada?

Some of the key elements that have contributed to successful CRIA implementation in New Brunswick are:

- The adoption of a 'whole of government' approach, which supported a province-wide commitment and integrated approach to the development of child-related policy and legislation. This is preferable to piloting a demonstration project within a single government department.
- The creation of a CRIA Working Group, with 8 government departments represented, who became the CRIA leads and mentors for their respective departments.
- The co-chairing of the CRIA Working Group by both the Executive Council Office and the New Brunswick Child and Youth Advocate Office. This structure conveyed a sense of strong and respectful collaboration, with the two co-chairs being seen as CRIA champions from within and outside of government.
- The CRIA working group and the 2 co-chairs were supported by UNICEF Canada (for the development of the CRIA tool, training and curriculum development) and the University of Moncton (for future research and evaluation). UNICEF Canada went out to New Brunswick and provided a special CRIA training session to the CRIA working group well in advance of the larger whole-of-government training initiative.
- The model for the delivery of training was well-planned, took place over 4 days (from February 18 to 22, 2013), and was presented to over 100 senior government employees (Deputy Ministers to Policy Analysts) by UNICEF Canada, the Executive Council Office and the Office of the New Brunswick Child and Youth Advocate's Office. The government is now considering how to make training simple and readily accessible by all policy and program development officials, as in Wales.
- The development by the New Brunswick government of its own CRIA tool, which has a two-part process. The initial screening assessment poses the question, "Are there any impacts on children?" If yes, then the second part of the assessment is activated, with a full CRIA being completed on the basis of a consideration of all the rights in the Convention on the Rights of the Child as well as some other considerations. This has turned out to be a simple and pragmatic approach. The tool is user-friendly and is an

electronic self-directed form with key links being provided right in the form (i.e., not a pen and paper exercise).

- The perceived benefits at this stage are:
 - There is a better understanding of children's rights and the Convention on the Rights of the Child – that the interdependent rights in the Convention help to stretch the frame of analysis and consider elements necessary for children's well-being that might otherwise be overlooked
 - There is a greater balance of the interests of various groups in the policy development process
 - There is a better level of analysis of the impacts before wiring a Memorandum to Executive Council which has, in some cases, led to changes in proposed policy and to the withdrawal of some proposals altogether
 - Ministers and members of the legislature can be more confident in putting forth new laws, policies and other decisions
 - The initial hesitancy in some quarters to adopt a new process has progressed based on experience with the CRIA tool
 - There is a better understanding of the role of the New Brunswick Office of the Child and Youth Advocate by government officials and this has forged a stronger sense of mutual respect and support for each other's roles

Conclusion

From time to time, notwithstanding the best of intentions, legislation and policy set off unintended negative consequences for the very children they are meant to benefit. In some instances, children are not considered at all in the process, even when it is likely that a proposed course of action will have impacts upon them. A Child Rights Impact Assessment could be effectively used to avoid or mitigate adverse impacts and enhance the benefits of policy, particularly for vulnerable children and youth. It can support those with the duty to protect children's fundamental human rights, including parliamentary legislators, with the analysis to make robust decisions.

While it has, to this point, fallen to the provincial and municipal levels of government within Canada to initiate Child Rights Impact Assessment processes, there is much scope for CRIA to be applied at the federal level as well. All jurisdictions introduce legislation and policy that have direct and indirect impacts upon children. In the case of the federal government and the two

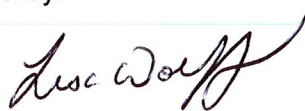
Houses of Parliament, clear examples of such matters are divorce and custody law, criminal law, immigration law, Aboriginal interests on reserve, family and child tax benefits and public health.

The Government of New Brunswick has taken a strong leadership role by initiating a mandatory CRIA process and creating a new CRIA tool, with early positive results in evidence, and we encourage all levels of government in Canada to explore the benefits of taking similar steps.

Respectfully submitted on behalf of UNICEF Canada by:



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