

# Towards a Suite of Tools for Ex Ante Child Rights Impact Assessment

Concept Note for UNICEF

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## List of acronyms

CESCR	Committee on Economic, Social and Cultural Rights
CRC	UN Convention on the Rights of the Child
CRIA	Child Rights Impact Assessment
CSO	Civil Society Organisation
DFID	UK Department for International Development
DIHR	Danish Institute for Human Rights
eaCRIA	Ex Ante Child Rights Impact Assessment
eaHRIA	Ex Ante Human Rights Impact Assessment
eaIA	Ex Ante Impact Assessment
EC	European Commission
EIA	Environmental Impact Assessment
EU	European Union
HOM	Humanist Committee for Human Rights
HR	Human Rights
HRIA	Human Rights Impact Assessment
ILO	International Labour Organization
M&E	Monitoring and Evaluation
MDG	Millennium Development Goal
NGO	Non-governmental Organisation
Norad	Norwegian Agency for Development Cooperation
PRS	Poverty Reduction Strategy
PSIA	Poverty and Social Impact Analysis
RIA	Regulatory Impact Assessment
SCCYP	Scottish Commissioner for Children and Young People
ToR	Terms of Reference
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children's Fund

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## Executive Summary

The UN Committee on the Rights of the Child recommends that all governments assess the impacts of their legislation, policies, programmes and budgets on children as part of their obligations to fulfil children's rights as set out in the UN Convention of the Rights of the Child (CRC). However very few governments have attempted to institute a regular process to do so. This likely owes in part to the absence of a suitable and accepted tool or process to carry out such an assessment, as well as a lack of a deeper understanding of what it really means to have an 'impact' on children's rights and how to predict or measure such an impact.

This concept note sets out the main issues to be considered in preparation for the development of a Child Rights Impact Assessment (CRIA) to enable governments, donors and other stakeholders to identify and address the potential impact on children's rights of new laws policies and programmes. The CRIA is part the Child Rights Toolkit being developed by the United Nations Children's Fund (UNICEF) with the support of the European Union (EU). The Child Rights Toolkit will bring together a series of tools to be used by governments, donors and other stakeholders to enable them to **identify and address child right issues** in their work and to **better integrate** children's rights into a whole range of relevant political, legal, budgetary and programmatic actions and structures.

### Overview of ex ante Impact Assessment

Ex ante Impact Assessments (eaIA) is 'the process of identifying the future consequences of a current or proposed action'.<sup>1</sup> A wide variety of tools, methods and procedures have been used, including Poverty and Social Impact Analysis (PSIA) (World Bank); Environmental Impact Assessment (EIA) and Social Impact Assessment (SIA); and Regulatory Impact Assessment (RIA).

There are several models and frameworks for eaIAs. They vary according to their scope (from very general to very specific); their structure, timing and stages of the assessment; the components of the different assessments and the methodological approaches to data collection and analysis.

There are a number of purposes for eaIAs, from generating learning for formulating policy options, to strengthening accountability or advocacy and awareness raising. The use and take up of eaIAs by policy makers is not always consistent, and recommendations are not always adequately taken on board. Generally, the nature of their uptake and use are affected by the way in which an eaIA is originally conceived, carried out and followed up.

### Human Rights and Child Rights Impact Assessment

There are many similarities between human rights impact assessment (eaHRIA) and other forms of eaIA, but eaHRIA uses the human rights framework of international legal obligations as its point of departure. However, as human rights and child rights assessment (CRIA) are still in their infancy, the models that have been used to date still do not address certain challenges. For example, there is currently little detail on how to interpret or define rights, and there is a challenge regarding which rights to focus on. The assessments do not address potential impacts concretely, or provide a sufficient range of example of these impacts. There are few, if any, links to the expert literature on the topic in question. Most models do not address the need to establish a 'baseline' from which to measure future impacts, nor do they address what this would look like from a rights perspective. Finally, the literature does not address the problem of impacts that may violate children's rights. Below, we attempt to address some of these issues, but it should be recognised that no single tool is likely to meet all of the above challenges. Rather, what would be more appropriate and realistic is a set of analytical tools that in combination help overcome these challenges.

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<sup>1</sup> <http://www.iaia.org/modx/index.php?id=318>.

## **Towards ex-ante Child Rights Impact Assessment**

Existing ealA, including eaHRIA, do not adequately cover important child rights issues, children are often overlooked by ealAs, the impact of laws and policies on children is not known, information is scarce and children are rarely directly involved in assessing potential impacts on themselves. It is also important to recognise that children are often at most risk to different vulnerabilities and that ealAs can help to draw out those differentiated vulnerabilities by making them a specific target of analysis which, in turn, can help avoiding negative impacts of policy decisions on children ('do no harm'). Finally, children are largely excluded from political processes – and often not visible to those in power – they do not vote and they do not pay taxes. eaCRIA processes can contribute to making children more visible by putting them on the agenda from the initial phase of a new law, policy or programme.

One of the key purposes of conducting an eaCRIA is to get children on the agenda and to promote and embed children's rights in the minds of decision and policymakers. eaCRIA also contributes towards: UN Convention on the Rights of the Child (UNCRC) monitoring; holding duty-bearers to account; advocacy and awareness raising; learning and evidence-based decision making; due diligence; 'do no harm'; increasing participation; reaching the most vulnerable and marginalised; and improved coordination across government departments. While these purposes are not necessarily mutually exclusive, and they can serve various groups' agendas, it would be disingenuous to try and serve all of these purposes simultaneously.

## **Proposal for the Way Forward for CRIA**

The following is at the heart of the proposed approach to CRIA:

- Children, and children's rights in particular, are often missing from existing ealAs and there is a need to bring impacts on children onto the agenda of different institutions and organisations.
- Child rights principles should be the basis for the structure, content and process of CRIA.
- Being realistic about the balance between depth and scope of CRIA is critical. Choices will need to be made to achieve this balance and to make sure that CRIA is a useful tool for the different audiences it aims to reach. These choices might include prioritising specific policy area or sectors (e.g. health, infrastructure, justice etc.) where impacts on children are likely to be more significant.
- CRIA needs to be tailored to the different audiences that it seeks to address and its potential use and application need to be considered from the outset.
- The process for developing the tool is as important as its final content: ideally, key stakeholders who will be using the tool should be involved in its development.
- It is necessary to identify champions and secure buy-in from CRIA users, i.e. the actors, organisations and institutions that are likely to carry out CRIA or use its results/findings.
- UNICEF involvement and commitment are critical through the process of developing, testing and using CRIA. No other organisation will have the influence and the mandate to make sure that children's rights are on the radar of development organisations and governments around the world: CRIA is an important way/mechanism to make this happen.

What is proposed is an 'embedded' model, i.e. an attempt to integrate or mainstream CRIA into existing IAs or similar processes (e.g. sectoral analysis, etc.), rather than developing a new stand-alone CRIA tool. The CRIA tool should therefore be a combination of specific, but separate, components to be tailored to specific issues, sectors and organisations which, when possible, should form part of existing or planned impact assessment, which would otherwise not include children or would not focus on children's rights. The main advantages of this are that it allows for targeting of specific audiences and building on existing or planned processes thereby increasing the likelihood that children's rights will be considered. It also allows for engagement with the potential users of CRIA while developing and testing the tool, rather than at the end of the process. The embedded model also brings child rights onto the agenda of organisations that would not normally consider impacts on children. To avoid CRIA 'going unnoticed', special attention will need to be paid to the processes and implementation of CRIA.

## Key Principles of CRIA

The development of the various components of CRIA should take into consideration an explicit human rights framework and human rights principles of equity and non-discrimination, participation and accountability. CRIA should focus on different dimensions that will affect the realisation of children's rights, such as the institutional dimension (what impacts the proposed policy will have on institutional structures/services that are key to children's rights); the access dimension (whether the proposed policy would impede or facilitate access to services); the civil society dimension (the extent to which civil society would be helped or hindered in ensuring children's rights are respected, protected and fulfilled); and/or impacts on the General Measures of Implementation. In addition, it may be useful to group rights into clusters, for example those laid out in the UNCRC (guiding principles; survival and development rights; protection rights; participation rights) or the reporting "clusters" of rights from the UN CRC Committee.

## Proposed Components of the Integrated CRIA Tool

The proposed components for the integrated CRIA tool are based on the following criteria:

- Opportunities to mainstream CRIA into existing well-established ealAs (e.g. World Bank PSIA, EIA and RIA, see Box 1);
- Building on other modules of the Child Rights Toolkit, which could integrate a CRIA dimension (e.g. PRS and budget module);
- Providing basic guidance to integrate CRIA questions into sector-specific impact assessments;
- Opportunities to directly involve and work with key actors within organisations and institutions in developing and testing CRIA;
- Avoiding replication of what already exists (e.g. CRIA for children commissions/ombudspersons that could build on existing experience from Scotland and Sweden).

## Mainstreaming CRIA into existing ealAs

**PSIA** will entail working closely with the World Bank to develop a set of questions and processes to ensure that children's issues and rights are taken into account. It will be important for a 'real life' pilot to take place, and there should be specific guidance on the key questions, processes and tools for CRIA (including indicators if appropriate), specifically tailored to existing PSIA processes and methods. Children's participation should be key. **EIA/SIAs** currently do not focus on children and could benefit from a set of specific questions and tools focusing on impact on children. Integrating a CRIA component into **RIA** could be a useful endeavour, although the feasibility of this needs to be assessed on a case-by-case basis, since some regulatory impact assessments may not have the flexibility to integrate new components or cover different issues. Finally, integrating CRIA into **business HRIA** would help ensure that the impact of business actions on children is on the business radar, particularly as this is a relatively well-established domain for HRIA. This will provide an opportunity to test how CRIA can in practice be integrated into existing efforts to conduct broader human rights-based assessments, by providing a focus on children's rights.

## CRIA in EU-UNICEF Child Right Toolkit modules

Integrating CRIA in the **poverty reductions strategy (PRS) module** will entail working closely with the team responsible for developing the PRS Tool. The CRIA component could be an annex to the main Toolkit. Integrating this component into the PRS Tool will allow a road test of the CRIA component in the field visits and pilots envisaged by the PRS module. Working with CRIA in the **budget module** would be similar to the PRS approach. The CRIA Tool should also draw links to the Tool on Legislative Reform that addresses drafting and amending legislation to ensure its compatibility with the UN CRC.

## General guidance for CRIA in sectoral ealAs

This would be generic, short guidance to assess potential impacts on children of policies, laws or programmes in different sectors. In practice, the guidance will be composed of two main parts: a selection of key questions to be addressed by ealAs to cover the relevant child rights issues, and

an overview on processes and methods to involve children in impact assessment to ensure that their voices are heard and taken into account by the overall assessment. Sectors to focus on could include juvenile justice; infrastructure; social protection; etc.

### **Child protection and ‘do no harm’.**

Although we suggest an embedded approach for CRIA as the most useful at this stage, to ensure buy-in and commitment of key organisations and institutions, in some circumstances a more holistic and universal approach to CRIA should not be ruled out. For instance, it could be argued that, in any organisation/institution, a CRIA focusing on child protection issues should be compulsory as a ‘do no harm’ requirement (as well as one of ‘due diligence’) for all new policies or programmes. This should be further explored in the next phase of the CRIA Tool development.

### **Next Steps**

The immediate next steps should focus on organising the work for the CRIA Tool. In particular, we recommend the following key steps:

- Appointment of a coordinator for CRIA, responsible for managing the various components and, if necessary, pulling together the main lessons from each at the end of the project/process. We would recommend that this coordinator be internal to UNICEF to ensure institutional commitment at different levels.
- Early consultation with the key actors/organisations involved (e.g. the World Bank, DIHR, Child Rights Toolkit teams, European Commission (EC), etc). This will be key to gauge their interest and discuss specific terms of reference (ToRs) for each component.
- Consider appointing a small and informal reference group which could provide guidance/support across all the different components and ensure some degree of coherence/consistency between them.
- Consider organising a consultation at mid-point (or towards the end) of the project to gather the view of the wider community on the various components of the Tool and to discuss the way forward in terms of future implementation. The key message here is not to wait until the Tool is available off the shelf to consult with the wider community meant to see it.
- Secure commitment for eaCRIA within UNICEF, including at high/political level as well as by getting operational teams – such as the evaluation department and key country offices – on board.

# 1. Introduction

The UN Committee on the Rights of the Child considers an assessment of impacts of legislation, policies, programmes and budgets on children a necessary part of the General Measures of Implementation of the UN Convention on the Rights of the Child (UNCRC) and has called on governments to carry out such a process. Although numerous governments have stated their intention to meet this obligation, few have attempted to institute a regular process to screen the impacts of their actions on children, much less carry out a more detailed, consultative impact assessment process. This likely owes in part to the absence of a suitable and accepted tool or process to carry out such an assessment, as well as a lack of a deeper understanding of what it really means to have an ‘impact’ on children’s rights and how to predict or measure such an impact.

This Concept Note sets out the main issues to be considered in preparation for the development of a Child Rights Impact Assessment (CRIA) Tool. Section 2 provides an overview of conceptual, methodological and operational issues related to ex ante Impact Assessments (ealAs). Section 3 presents a general assessment of the experience to date with Human Rights Impact Assessment (HRIA) and CRIA. Section 4 presents alternative approaches for CRIA and recommendations for the preparation of the actual CRIA tools to be developed by the UN Children’s Fund (UNICEF) as part of a broader project to develop a Child Rights Toolkit with the support of the European Union (EU). The Child Rights Toolkit will bring together a series of tools to be used by governments, donors and other stakeholders to enable them to **identify and address child right issues** in their work and to **better integrate** children’s rights into a whole range of relevant political, legal, budgetary and programmatic actions and structures.

## 2. Overview of ex ante Impact Assessment

This section draws on the literature on ealA to bring out a number of key issues in developing a tool for ex ante CRIA. These issues are conceptual, methodological and practical, and centre around: how ealA is carried out; what an ealA process looks like and what elements are involved; and what factors shape the knowledge produced and determine how this is used and its influence on policymaking. This section is not meant as an exhaustive overview of experience to date with ealAs, but rather as a selected review for the broader purpose of the Concept Note, i.e. to inform the development of an ex ante CRIA.

### 2.1 What is an ex ante Impact Assessment?

ealA is ‘the process of identifying the future consequences of a current or proposed action’.<sup>2</sup> There is no single model of ealA, and a wide variety of tools, methods and procedures have been used. Some examples of ealA in practice are outlined in Box 1.

#### Box 1: Main Types of ealA

**Poverty and Social Impact Analysis (PSIA):** PSIA has been promoted by the World Bank for a number of years. It involves the analysis of the distributional impact (intended and unintended consequences) of policy reforms on the wellbeing or welfare of different stakeholder groups, with a particular focus on the poor and vulnerable. It is anchored in the operational policy for development policy lending (OP 8.60), which does not make a PSIA mandatory but stresses the need to address potential impacts where policies may have significant impacts on the poor. The stated aim of PSIA is to improve the development effectiveness of reforms.

PSIAs tend to be carried out by World Bank staff and external consultants, in partnership and consultation with developing country governments and other national stakeholders (e.g. civil society organisations (CSOs)). There is no set template methodology; rather, it is seen as an ‘approach’, with a variety of tools and

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2 <http://www.iaia.org/modx/index.php?id=318>.

'good practice notes' provided by the World Bank. Methods identified include stakeholder analysis, institutional analysis, social impact analysis, participatory poverty assessment, behavioural incidence analysis, partial and general equilibrium analysis and public expenditure tracking survey (World Bank, 2003). There is a wide variety in products and processes, and a crossover between PSIA and other forms of analytical work (Evans, 2008).

**Environmental Impact Assessment (EIA):** EIA emerged in North America in the 1970s, spread to Europe in the 1980s and is now enshrined in various local, national, regional and international environmental regulations. EIA is the process of identifying, predicting, evaluating and mitigating the environmental effects of development. For national laws, EIAs are often compulsory for set types of projects (projects that are always likely to have significant environmental impact), with some flexibility over smaller projects or ones where the environmental impact is less clear. Most development organisations require some form of environmental review as part of the appraisal process, in order to ensure that potential environmental consequences are taken into account in the project, programme or policy design.

The onus tends to be on the developer (of projects such as infrastructure) to commission and oversee the EIA, which is then submitted to planning authorities. Again, there is no prescribed form of assessment so long as the requirements of the regulations are met. EIA involves looking at factors such as the magnitude, reversibility, importance, timescale and duration of effects on the environment, and in turn the impact on human wellbeing, as well as potential mitigation measures. Especially in developing countries, there is often a heavy reliance on expert opinion ahead of other approaches (such as participatory methods) (Wood, 2003).

**Regulatory Impact Assessment (RIA):** RIA has been used for a number of decades in the EU and North America. It is the process of systematic analysis of the likely impacts of an intervention by public authorities. There are commonly two stages of the process: preliminary impact assessment and extended impact assessment. Sometimes, certain pre-identified types of projects require a RIA by law. While often based on the results of the preliminary assessment, a decision is made over whether or not the proposal will result in substantial economic, social or environmental impacts; if so, the extended assessment is carried out. The main aim of RIA is to create better policies, by ensuring that policymakers do not introduce policies without a full understanding of their consequences and alternative courses of action (George, 2009).

RIAs are initiated and coordinated by government administrations during the process of developing policies. There is a wide variety in practice, with some formal compulsory guidelines on how to carry out assessments and some areas where guidance is optional. There is wide variation in the depth of the assessment. Economic analysis is frequently used, along with methods such as cost-benefit analysis and administrative burden assessment. Stakeholder consultation tends to be at one of three levels: provision of factual information; informing stakeholders ex post about the assessment through publication; or no involvement at all (Hertin et al., 2009).

## 2.2 Why Carry out an ealA?

As they tend to be conceptualised in formal policy documents, there are two main rationales behind carrying out an ealA (see Corrigan, 2006 for an overview of numerous ealA initiatives): i) the beneficial outcomes of the ealA; and ii) value gained from the process of carrying it out.

**First**, one aim is to generate more **positive outcomes** from agency or government decision-making processes, i.e. to help agencies make better decisions and improve the design of policies and programmes. Three possible elements of this are:

- **Impact:** Carrying out an ealA can enhance the positive impact of a policy, the extent to which it contributes towards beneficial outcomes and end goals of the programme.
- **Do no harm:** It can also help minimise potential negative impacts or undesirable side effects.
- **Efficiency:** It can help a policy or programme better use resources in achieving its aims.

**Second**, there are a number of benefits generated in the **process** of carrying out an ealA. These benefits are valuable in their own right for improving decision-making processes (in agencies like donors or in-country policy processes). They are also seen to be valuable because they enhance the chance of policies being accepted and subsequently adopted and contribute to longer-term

changes in policy processes. These are likely, in turn, to lead to better decisions and policies. Carrying out an ealA can do this by:

- Informing and involving people likely to be affected by decisions and policies, and building country and/or community ownership of policy choices.
- Enhancing knowledge of decision makers and contributing to capacity building of those involved in decision-making processes.
- Contributing to a more open, flexible and transparent policy process, and one that is better informed by evidence.
- Enhancing stakeholder dialogue and debate on key issues, and contributing to a body of analytical evidence in a particular area.

## 2.3 How to carry out an ealA

Unfortunately, while there is a good deal of guidance on how to carry out different sorts of ealAs, and many 'good practice' notes to guide assessments, there is a limited amount of literature examining exactly how they are carried out. Many ealA reports themselves are not published (e.g. many PSIA are not publicly available – Hayes, 2005), and there is even less literature on how ealAs are used or what influence they have. These trends in the literature are even more pronounced for international development and developing country contexts. As a result, this overview of ealA has had to be opportunistic, drawing on literature on a variety of different types of ealA. The review draws in particular on literature on PSIA and RIA, which have more substantial literature around them.

## 2.4 Models of ealA

How is ealA carried out? There are a number of different models, but they do have some features in common. This section outlines the main elements of an ealA process, structured around sequential stages. Different models emphasise different stages, and there are various options for carrying each of them out. Sometimes stages are repeated. Note that many approaches to ealA involve engagement, dialogue and consultation with various stakeholders throughout the whole process (e.g. Higgins, 2007). We will describe how this is relevant at each stage.

### 2.4.1 Selection and Screening

It would be impossible to carry out an ealA on every decision or proposal made, so decisions are made about what should be subject to assessment. There is considerable variation in what is to be considered for ealA, when it is to be carried out and what criteria to use to make the decision.

The **first** question is '**impact of what, on what?**' Depending on the aims of the exercise, ealAs can be used to analyse the impact of policy decisions (for new policies or amendments), projects and programmes, services, budgetary decisions and current practice (e.g. implementation of a policy) (Paton and Munro, 2006). Assessment could examine potential impact on a particular group (e.g. children, women) or a particular issue (the environment, health), or take in an overall picture of the effects of the programme.

Depending on these factors, ealAs can take the following forms:

- **Full assessment:** Some ealAs are intended as a full assessment of the benefits and costs of a proposed policy, with a view to optimising it within its own framework of reference. This focuses the ealA on a single decision or policy with a view to 'optimising' effectiveness or efficiency. RIA is often used in this manner, as a tool for governments to examine all the relevant consequences of each new proposed policy as part of the formulation process.
- **Policy integration:** ealA can be geared towards implementing overarching strategies, where an attempt is made to align policy objectives with generic objectives (e.g. economic competitiveness). Close attention is paid to side effects, trade-offs and synergies. For example, efforts are being made in the EU to integrate ealAs around themes such as

sustainable development, by linking separate ealAs on similar topics and linking together impact assessments undertaken at different stages in the project cycle (Lee, 2004).

- **Issue specific:** Other procedures are geared towards specific issues (e.g. health, environment, human rights), usually in a policy domain that is not focused primarily on that issue. The focus tends therefore to be less on comparing policy options and more on minimising negative side effects on the identified issue. For example, EIAs are often used for types of projects that can potentially have large environmental consequences, such as large infrastructural projects like dams or motorways.

**Second**, the **timing** of the assessment varies. For example, with RIA in the EU, some countries require a start date as soon as a policy measure is considered; others foresee the assessment once a proposal has been drafted (Hertin et al., 2009). There is usually some guidance over when to carry them out ('as early as possible' is frequently specified), but requirements are rarely explicit.

**Third**, within the remits set out on the focus of the ealA, there is usually some scope for deciding **whether to carry an assessment** out at all. This can be specified officially in policy or left up to discretion (George, 2009). Three common criteria used for this decision are:

- **Significant potential impact:** Three sorts of routes tend to be used to judge 'significance': institutional recognition (e.g. official policy); public recognition (e.g. opposition to the impact); or technical recognition (e.g. concern from experts) (George, 2009).
- **Strategic importance to the implementing institution:** This can include: issues that are high on government agendas (World Bank, 2003); policies with large budgetary allocations; or actions that are seen as urgent (although urgency can mean ealAs are not carried out).
- **Potential influence on change:** ealAs may be particularly useful to fill gaps left by existing laws or regulations but less useful where there are already a number of initiatives aimed at appraising projects (e.g. evaluating impact during or after project implementation) (George, 2009). They could be seen to be most necessary where the impact of a proposed policy is highly uncertain, such as with complex programmes.

#### 2.4.2 Scoping and Planning the Assessment

Once a project or policy and type of assessment are selected, it is common practice to map out a number of factors prior to the assessment. In some contexts, these may be submitted in order to judge whether a full ealA is required, and they form the basis for the assessment, for example through formal terms of reference (ToRs). The scoping may include details of:

- **Proposed policy:** A description of the proposed policy, who initiated it, who would have responsibility for implementation, the problem to be addressed and the objective.
- **Alternatives:** Some procedures require initial ideas for alternative policy options or mitigating measures at the scoping stage (Corrigan, 2006). Another approach is to describe the policy constraints and what is beyond the realm of possibility (World Bank, 2003).
- **Likely impacts:** Some initial indication is often required of the effects the policy is expected to have, or types of effect. For example, RIAs in the EU examine economic, social and environmental impacts.
- **Stakeholders:** As well as the people potentially affected, many ealAs require a mapping of those who have influence over the decision to adopt a policy and those who will be implementing it as part of the stakeholder mapping exercise.
- **Assessment approach:** Sometimes it is required to map out where there is existing knowledge or information, and on what issues new knowledge is needed. Related to this is the question of what levels of detail are required for different parts of the assessment. For PSIA, it is necessary to indicate the proposed methods of assessment (relating to consultation and data collection) and the sources to be consulted (people and literature).
- **Definitions:** It is fairly common for some analytical factors to be fixed at this stage. For example, definitions of key terms and goals of the policy or potential indicators may be given. Setting the geographical area and time horizon is also sometimes covered, along with the extent to which influences from outside these boundaries are to be considered. For

example, PSIA must decide the extent to which changes in international markets are considered in judging the effect of a domestic policy (Lee, 2004).

Although not often seen in practice, a key message from the literature on evidence-based policymaking is that communication is central as part of the planning process. As well as identifying stakeholders relevant for participation in the study and consultation, a communications strategy should be a priority in order to identify key audiences and opportunities for engagement and communication.

### 2.4.3 Assessment Components

The next stage is the actual assessment of impacts. A number of issues can be considered: the degree to which questions and methods are fixed varies. Some policies on ealA give guidance for a specific 'approach'; others require the assessment to use an explicit template. The former is seen with PSIA and other more extensive ealAs, which tend to involve primary data collection. The latter tend to be applied for desk-based studies, which will rely largely on existing data, with shorter timeframes and smaller budgets. For all types, a number of different components to be assessed are commonly covered, which can be grouped into several areas:

- **Describe existing conditions (e.g. social, economic, environmental)** within the proposed policy area and among main stakeholder groups, the main problems to be addressed and their root causes. Child impact assessment in Scotland involves consulting children on the nature of the problems being addressed (Paton and Munro, 2006).
- **Formulate the proposed policy, its goals and objectives**, sometimes suggesting the boundaries of feasibly implementable alternatives.
- **Investigate the potential effects of one or several possible scenarios**, forecasting the future conditions in the area (for the various groups) in the event of: implementing the proposed policy; not implementing any policy; and implementing various alternative policy options. PSIA frequently uses econometric analysis or macroeconomic modelling to investigate various scenarios (Cartier-Bresson et al., 2006).
- **Identify alternative strategies** to address problems and contribute to attaining the goals, ways of enhancing the positive impact and mitigating or compensating for negative impacts.
- **Assess implementation issues**, e.g. the costs of implementing the policy and the political economy of the implementing institutions and others who can affect the reform. RIAs frequently use administrative burden assessment, such as a 'standard cost model', to assess reporting costs imposed on business and citizens (Jacob et al., 2008).
- **Assess the risk that some of the assumptions underlying the analysis may not be realised.** For example, PSIA involves considering the potential impact of market failures, natural disasters, organisations behaving in unexpected ways, etc (World Bank, 2003).

### 2.4.4 Assessment Approach and Information Collection

The ways in which ealA components are assessed, the types of methodology and consultations used and their depth and duration vary considerably. Some simply involve secondary data collection and desk-based research, based on defined templates or tools. Others involve wide-ranging consultation, or a variety of quantitative, qualitative and participatory research tools. For example, in a review of PSIAs, Evans (2008) finds many are desk-based, relying mainly on secondary data and analysing a narrow range of poverty impacts and often a narrow range of options. They tend to have fairly modest budgets (around \$50,000) and to be produced in less than six months. Others draw on both primary and secondary data analysis, using a wide range of largely qualitative methods, with special attention given to engagement with government officials and other constituencies and a significantly larger budget (\$250,000+) and timeframe (nine to 18 months).

Mostly ealAs start by mapping out and taking stock of existing data on the various issues: based on what is available, the level of detail required and the timeframe or budget for the ealA, it may be possible to base the assessment adequately on the available evidence. If not, then there are two main routes for generating evidence: research and consultation.

## *Research*

A variety of research methods are available for assessing different aspects of the ealA, depending largely on the nature of the issue. Some methods are used in a variety of different contexts. Quantitative methods are often used, in particular economic modelling such as cost-benefit analysis (Hertin et al., 2009). Micro and macro models are used, and analysis is often carried out by specifying a number of 'transmission channels', causal chains through which the proposed type of policy tends to have an effect on target groups (e.g. the key channels examined for PSIA are employment, prices, access to goods and services, assets and transfers and taxes) (World Bank, 2003). Quantitative methods are relatively quick and cheap to apply, and provide a robust analysis. However, they tend to focus on a narrow set of effects, leaving important questions about wider dynamics unanswered and excluding stakeholder perspectives (Evans, 2008).

Qualitative methods are used, but to a lesser extent. For example, a review of regulatory ealA in the EU argues that more attention needs to be given to structured ways of analysing different impacts in a qualitative way (Jacob et al., 2008). For PSIA, power mapping and institutional analysis are seen as important components (Evans, 2008; Spence, 2005; World Bank, 2003). Possible participatory approaches include case studies and field-based methods such as community rankings and semi-structured interviews and focus groups.

Many authors argue for using both quantitative and qualitative methods, integrating them in sequential and iterative approaches. For example, qualitative methods can be used to postulate quantitative models, identify unanticipated impacts or risks, complement conclusions arising from models and compensate for the lack of quantitative data (Schnell, 2005). However, in practice this seems difficult to implement. For example, with PSIA, quantitative and qualitative approaches tend to be used in parallel at best, and there is often not even consistent triangulation (Evans, 2008).

Specific tools can be used for desk-based or preliminary assessments. These function as standalone methods for assessing impact, or to structure secondary data collection:

- **Checklists** can be used to guide thinking and sensitise on baseline conditions, policy components and main types of resulting impact (Lee, 2004). Those carrying out the assessment 'tick' successive issues to indicate whether they have been considered or require further information.
- **Flowcharts** help show the direct and indirect impacts of a particular policy on the outcome of interest, based on set transmission channels. For each channel, questions are structured and guidance given to trace each step of the causal chain, pointing out key issues for analysis and potential measures to enhance positive impact or mitigate negative impact (Turner et al., 2008).
- **Matrices** can be seen as a combination of two checklists. They can be useful for organising and presenting different types of information.

## *Consultation*

Stakeholder participation contributes to the quality of an assessment, although participation varies from context to context and is shaped by the culture and openness of the decision-making process (Jacob et al., 2008). Consultations are seen as a crucial way to gather evidence, enhance the transparency of the ealA process and build commitment to the reform.

Guidance on ealA indicates that a range of stakeholders should be consulted, such as researchers, parliamentarians, donors, civil society, technocrats, etc (Higgins, 2007). The main stakeholders to involve are those who have an influence on the decision and who are affected by the problem the policy is addressing, although it can also be important to consult academics and experts on some issues – for example, EIAs commonly rely heavily on expert opinion. For certain tasks, certain stakeholders should be perceived as knowledge holders, for example providing valuable inputs into the nature of a problem, the likely effect of a policy and possibilities for improving it. For others, they should be seen as interest holders. An example of 'knowledge holder' consultation can be seen in the way that child impact assessment in Scotland involves consulting children to elicit their views and knowledge on what potential effects a policy may have on them.

'Interest holder' consultation is seen when PSIA is carried out in collaboration with government ministers who will be responsible for implementing aspects of the policy.

Unfortunately, evidence of practice so far seems to show that consultation is often neglected, certainly outside the groups of stakeholders who hold the responsibility for taking the policy decision or implementing it. For example, a review of RIA finds that stakeholders external to government departments tend not to be actively involved (Hertin et al., 2009), and numerous reviews point to weak integration of CSOs in PSIA processes (Cartier-Bresson et al., 2006; Hayes, 2005). PSIA is often carried out without the knowledge of stakeholders external to the implementing organisations. Hayes (2005), in a survey of national-level recognition in countries carrying out PSIA, finds that only 26% of CSOs had knowledge of it being carried out.

### **Box 2: Approaches to Understanding 'Impact'**

The way in which an ealA is constructed, and the methodologies and approaches used, reflects different ways of understanding 'impact' and the nature of change processes more generally. These conceptualisations of causality may be more or less suited to different contexts and different sorts of policies or programmes, and are also closely related to issues about the knowledge base and robustness of the ealA, and the levels of impact examined.

Defining impact is complex. Generally speaking, impact refers to the changes occurring as a result of a policy or an intervention. These changes can be the direct or indirect effects of the policy or intervention. They can be intended, i.e. envisaged during policy formulation or planning phases as well as unintended, i.e. unpredicted. Impacts are different from outcomes, in that they are not the immediate result of a policy or an intervention, but rather longer term changes occurring as a result of it. For example, the outcome of an education programme could be increased school enrolment or decreased school drop out rates, whilst impacts could include better knowledge, higher employability and even poverty reduction.

**Models of 'impact':** there are different ways of conceptualising potential 'impacts', implicit in the way in which change is assessed in ealAs. One model is '**successionist**' causality (EES, 2007), which involves looking at chains of causality where some policy or programme output is deemed to have an effect on an intermediate outcome, which in turn effects the desired objective (so X causes Y causes Z). This is seen in the use of 'results chain' tools for ealA, and in the ways that 'transmission mechanisms' are often used to trace the impact of a policy to the level of potential beneficiaries. Also it is often reflected in the way in which knowledge about impacts is often produced in terms of 'if the policy is put in place, then X will be the effects on the population, if it is not then Y will be the effects' (i.e. 'policy on vs. policy off' scenarios), often with attendant mitigation measures to compensate for any negative impacts of X.

Another important approach is the '**configurational**' model, where several dimensions or properties are seen to be necessary but not sufficient to produce a desired outcome (e.g. 'for this type of policy to have a beneficial impact on this group, we need X, Y and Z to happen'). This is seen in the way that different types of impact are often mapped out for certain types of policy (e.g. the flow charts on impacts of trade policies on the poor looks at three channels – distribution and consumers, enterprise and government and taxation (Turner et al., 2008). Many ealA approaches will combine both of these kinds of model (e.g. the selection of specific transmission mechanisms may be a matter of using the 'configurational', with more detail about the specific impacts along these mechanism being assessed using successionist logic).

**Methodology and knowledge base:** The type of approach and methodology used reflects implicit or explicit judgements about the level to which change can be confidently forecast in the policy area, and the extent to which there is a solid knowledge-based to draw on. Successionist logic may be most useful where implementation contexts are quite well known and stable, or where outcomes tend to be produced in a linear fashion (e.g. vaccination programmes), but less so where change is multifaceted and complex (e.g. capacity building) (Jones (a), 2009). For example, a configurational logic is implicit in the design of Indonesia's PSIA of a labour market policy – there was little existing knowledge of the specific sorts of issues being examined in the country context, and so the assessment focused on reviewing theory and international experience on the critical issues to be aware of (Evans, 2008).

The choice of methodologies and disciplines mobilised for the ealA must be chosen based on similar factors. For example, quantitative modelling is suitable for situations where the issues are well known, with such models based on a number of theories and assumptions about causality and change. Quantitative methods are often criticised for biasing analysis towards 'hard' economic facts (Jacob et al., 2008), for example the World Bank's PSIA's have been criticised for focusing disproportionately on narrow economic 'distribution

analysis' ahead of a broader understanding of social impacts and 'welfare' (Hayes, 2005). On the other hand, qualitative methods such as semi-structured interviews are often more exploratory, analysing a broad range of potential impacts.

**Levels of impact:** different methodologies focus attention on impacts and effects of different types and at different levels. This is reflected in the levels of the analysis carried out to understand these impacts. In general, it is very common to look at impacts at the **household level**, often using economic analysis of household survey data (Evans, 2008). Here, impacts tend to be conceived largely in terms of more monetised views of wellbeing (Hayes, 2005) and, although there are attempts to include other indicators of human development, this is often not reflected in the range of methodologies used. These sorts of impacts are often conceived in fairly short time periods, in terms of immediate costs and benefits. Participatory methodologies such as field-based community rankings and focus group discussions are available to analyse effects at this level and below. At a wider level, there are criticisms that many ealAs do not properly assess economic impacts at the **macro level**. For example, there is a current lack of suitable tools for considering the links between macroeconomic policies and poverty, or environmental implications (Gunter et al., 2005).

One issue of particular relevance is conceptualising the factors that influence and direct **institutional change**. The World Bank's PSIA emphasises institutions, which include all formal and informal rules, practices and traditions that structure society, and are particularly important for implementation of reforms (Cartier-Bresson et al., 2006). There are promising approaches (for example, the Yemen PSIA examines the structure and dynamics of all formal and informal institutions involved in water services from the basin to the national level), but problems of human agency and reflexivity make firm prediction and control of behaviour changes impossible (Earl et al., 2001), and influencing behaviour can involve different sorts of strategies, such as challenging attitudes and mindsets, and work to reframe actors' understanding of problems. This is different again to the successionist or configurational models of causality, and requires different sorts of analysis (e.g. a greater incorporation of qualitative methods).

#### 2.4.5 Assessment Analysis and Recommendations

It is likely that the analysis will uncover a number of issues in relation to the impact of the proposed project, policy or programme and its various alternatives. For example, different policy options may each have a variety of positive and negative impacts on different groups and along different dimensions, and be associated with different costs and risks. There may also be disagreement or uncertainty about different aspects of impact, and even conflict or competing stakeholder interests. Some assessments are framed in terms of simply presenting results to decision makers in this form, laying out all the complexities of each option. However, in practice there is always some degree of aggregation of some types of impacts in order to make the results understandable. Decisions about weighing up different impacts and interests, comparing different policy options and making recommendations can be taken in different ways. Presenting can involve aggregated scores, where different impacts are quantified, 'weighted' and added to produce composite 'scores' for each option. More disaggregated forms of presentation are also used, such as matrices (Lee, 2004).

In some contexts, assessment procedures and criteria for weighing up different impacts and alternatives are specified in regulations; in others, they have evolved over time to match the prevailing organisational culture; in others, there are no set patterns. Some approaches are technocratic, relying on expert judgement. Others focus on the structure of the decision-making procedure, focusing on inclusive and participatory judgements (Lee, 2004). Available evidence indicates that these decisions are more often not explicitly acknowledged, subsumed into more 'technical' concerns and not put up for debate among stakeholders. However, there are efforts to improve practice through integrating processes of consultation, dialogue and even participation in these analyses.

ealA recommendations can take many forms: the proposal should not go ahead; it should be reviewed and improved; it should go ahead subject to certain amendments; it should go ahead along with compensatory measures to mitigate negative impacts; or further research or consultation is required (Paton and Munro, 2006).

#### 2.4.6 Publication and Communication

Communication is important, but in many areas systematic efforts are rare or an afterthought. The situation has been particularly difficult for politically sensitive topics, or where revealing external support may be problematic (e.g. with the World Bank and in-country PSIAs, see Evans, 2008) or where decision makers have undertaken ealAs of their own policies. 'Good practice' suggests a number of important factors. It is important to publish assessment results and disseminate them to key decision makers and stakeholders, especially those consulted during the exercise. Results should be in an easy-to-understand format, such as policy briefs, with non-technical summaries. Tools such as implementation matrices have proven useful in stimulating uptake.

#### 2.4.7 Follow-up

There are limited signs of significant follow-up or of concrete mechanisms to ensure this. One area highlighted in the literature is follow-up through monitoring the extent to which recommendations are taken into account by decision makers. Depending on the context of the assessment, this may be linked to institutional incentives and mechanisms, such as conditions for receiving funding for the policy. In addition, ealAs should feed into efforts to monitor and evaluate the policy in order to assess its actual impact once implemented. Such efforts should be integrated into existing monitoring and evaluation (M&E) systems. For example, ealA can serve to highlight priorities for learning (where impacts are uncertain). Lessons learned on actual impact can be compared with the ex ante assessment to improve future ealAs (Corrigan, 2006).

### 2.5 What Shapes an ealA and its Influence?

While official rationales and processes for ealA tend to be framed in terms of a rational problem-solving process, in practice they can be quite different. There is quite a lot of diversity in how they are used, and a number of different (often implicit) functions and different expectations about the precise role that ealA will play. Four typical sorts of purposes and related potential uses can be distinguished. These reflect different relationships between the ealA process and the reality of the decision-making process.

- **Learning:** ealAs can be used in an interactive manner, helping decision makers think through and formulate policy options, and bringing policies better in line with the current understanding of problems and the effects of different courses of action.
- **'Due diligence':** ealAs are often used to legitimise policy decisions. They are produced as part of an exercise to justify a course of action, or to show that enough attention was paid to key issues. This is likely to help ensure policies (etc) are approved and implemented.
- **Advocacy and awareness raising:** ealAs can be used as a tool for increasing awareness of particular issues within or among organisations, or drawing attention towards (possibly negative) impacts of proposed courses of action.
- **Non-use and misuse:** Sometimes, ealAs are not taken up by decision makers, with recommendations not adequately taken on board. Sometimes, they are used simply to delay decisions.

The nature of the assessment and its uptake and use are affected by political economy considerations. Two areas examined here are the politics of ealAs in policy processes and the institutional dimensions of producing and using them.

#### 2.5.1 The Politics of ealAs In Policy Processes

ealAs are not carried out in a vacuum: there exist ongoing policy processes, including political and bureaucratic forces that surround policy formulation. The notion of a neutral, objective government department or agency office which chooses the most efficient policy option does not match reality, where decisions are influenced by a number of actors and ealAs can be used by government departments, opposition parties, target groups or other stakeholders to support or oppose a measure (Jacob et al., 2008). These shape the window of opportunity for such an exercise to influence the policy process, as well as the type of influence that it can achieve.

*Timing and fit with policy debates*

Timing is a crucial factor. There is likely to be an ongoing policy debate, with set junctures where decisions may be made. Indeed, policy debates can be quite 'path dependent', evolving around a specific policy solution rather than searching for solutions to a problem (Hertin et al., 2009). So if an ealA is conducted late in the decision-making process, the options under consideration may have already been narrowed down considerably. On the other hand, ealAs that start earlier in the lifecycle of policy discourse may have more space to influence the process. Note also that timing can significantly influence the levels of participation possible, since participatory processes tend to take longer, although rapid participatory techniques do exist. Alignment with the in-country policy calendar is one of the most important factors in facilitating the influence of PSIA (see Higgins, 2007).

#### *Participation and power*

Whose knowledge is considered as relevant to the assessment, and which stakeholders are able to participate in a meaningful way, will influence the results of any assessment. For example, if the implementing organisation perceives there to be considerable (potential) opposition to an issue, it is in their interest to have poor or limited consultation (Jacob et al., 2008). Equally, adopting highly technical and 'scientific' approaches can mean that high levels of expertise are required to participate (Wilks and Lefrancois, 2002), which means that participation or consultation of stakeholders is disregarded and processes are less transparent. There is a strong call from various authors for the actual assessments to be more inclusive and participatory (Evans, 2008; Hayes, 2005; Hertin et al. 2009), since this is seen as enhancing the quality of assessments by helping highlight unintended consequences, determining the magnitude of effects, reaching a balanced assessment and developing policies that can be implemented in practice.

#### *Underlying logic*

It is not realistic to see the actual analysis and assessment as neutral or comprehensive, and the way in which an ealA is conceived, carried out and institutionalised is likely to reflect certain ideas and assumptions. For instance, quantitative methods are often used to model potential impacts, which tend to bias analysis and discussion towards 'hard' economic facts and a monetised view of poverty (Jacob et al., 2008). For example, criticisms of World Bank-conducted PSIAs argue that they focus mainly on narrow, economic modelling, ignoring many non-economic factors of poverty (e.g. Selvaggio, 2002; Wilks and Lefrancois, 2002). This can imply that, in contexts where ealA is being undertaken primarily for legitimisation of decisions already taken, it is often framed or set up in a way that excludes real considerations of alternatives.

### **2.5.2 Institutional Dimensions**

Questions of organisational and institutional capacity, resources and incentives are central to shaping ealAs. For example, a review of RIAs in the European Commission (EC) found that the quality of ealAs was hindered greatly by: the lack of formal mechanisms for quality control; limited human resources to carry out assessments; limited support, advice or training for those executing assessments; and a lack of a forum for practitioners to share lessons (Corrigan, 2006).

#### *Political will*

Ensuring attention is paid to ealAs at high levels of leadership (e.g. in the UK RIAs require ministerial signoff) fosters political will and helps assure quality and maintain relevance. It can be effective to embed 'champions' of impact assessment who have the authority to 'get things done' to raise awareness of the value of the approach.

#### *Resources*

Making adequate resources available for the ealA is important in shaping the effect an assessment will have. For example, a review of PSIA highlights that devoting financial and human resources to dissemination and policy dialogue activities is almost a prerequisite for influence (Higgins, 2007).

#### *Capacity*

The level of individual and institutional capacity to carry out the ealA is crucial. World Bank guidance on PSIA argues that capacity of in-country partners involved with the assessment throughout the process must be built (World Bank, 2003), and constraints on the capacity of

national researchers have been identified as one of the main impediments to moving the PSIA agenda forward (Bird et al., 2005). The involvement of a technical specialist in the sector on the PSIA team has proved to improve uptake as well. However, as noted above, requiring a lot of technical expertise can also exclude some stakeholders from the process.

Building capacity can involve training those who will be carrying out ealAs in methods (including participatory methods) and technical skills (e.g. how to commission an external study that will produce transparent advice – Jacob et al., 2008) (Corrigan, 2006). Where external actors (including consultants and technical specialists) are involved, it is important to foster close collaboration with local counterparts, e.g. through strengthening partnership-based approaches to research or secondments of research staff to policy departments and vice versa (Evans, 2008).

#### *Quality control*

Many commentators argue that a central body is needed to provide oversight and quality control for ealAs (Hertin et al., 2009). This is seen as an important way to facilitate more open and transparent ealAs, as well as more robust analysis. However, setting up a body and ensuring its independence is not necessarily an easy task. Such units have played only a minor role so far in EU RIAs (Jacob et al., 2008).

#### *Culture and incentives*

A lot may come down to the institutional ‘culture’, such as whether experimentation and innovation (for example, to adapt templates and tools to local contexts, to try new methodologies, to provide platforms for peer-to-peer learning, etc) are valued and various organisational processes, incentives<sup>3</sup> and habits linking knowledge to action are in place.

## **3. Human Rights and Child Rights Impact Assessments**

This section provides an overview of thinking and research in the field of ex ante Human Rights Impact Assessment (eaHRIA) and ex ante Child Rights Impact Assessment (eaCRIA) in particular. eaHRIA and eaCRIA can be seen as the younger siblings of environmental and social impact assessments. There is scant literature in this area, either on theory or on practice. Few models have been developed, and there is less overall experience of implementation. Nevertheless, this section examines experiences to date with a focus on eaCRIA, general HRIA, HRIA in the business sector and health HRIA. This is not meant to be a comprehensive overview, but picks up on key themes that emerge from the literature, detailing the main features found in current models. These include: frameworks used; areas assessed; key questions asked; timing; approaches taken; methodologies used; key implementers; and how results have been used and by whom. This is followed by a brief discussion of the similarities and differences with other forms of ealA (as described in Section 2) and an analysis of the current gaps in thinking and practice.

### **3.1 Experience to Date**

Given the plethora of work on rights, impact assessment and ex post rights-based impact assessment, there is surprisingly little work or documented examples of eaHRIA in practice. Some work has focused on looking at human rights impacts generally, some on impacts in the business context, some on impacts on health rights and some on impacts on children’s rights. The latter have generally been developed by government departments responsible for children’s issues.

Little information is available on exactly how assessments are carried out or on methodologies used. Much of the literature is either silent on the issue or provides a set of (often quite broad) questions (e.g. what will the impact be on children and young people?) that an assessment might include, with no further explanation of how data or input to answer such questions might be

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3 Such as providing budget lines for ealA (Evans, 2008; Jones, 2009b, La Rovere et al., 2008; Watts et al., 2008).

acquired. Most refer to or recommend consulting with those affected by the proposed decision, including children and young people as well as experts, but beyond this there is little in the way of explanations of other methodologies that have been used or that might be applicable. Even with consultations, there is little explanation of which adults, children and experts should be/were consulted, how they were chosen and what the consultation consisted in of.

A table outlining the key features of models reviewed for this section can be found in Annex 2. Below, we discuss common threads that appear in many eaHRIA and CRIA models.

### 3.1.1 Underlying Framework

Most eaHRIA and CRIA are based on the normative framework of international human rights law laid down in the Universal Declaration of Human Rights, the international Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and the United Nations Convention on the Rights of the Child (UNCRC). Some models also refer to standards, guidelines and principles contained therein as well as other conventions (for example, International Labour Organization (ILO) conventions for business eaHRIA). Others – health HRIA – refer to the Millennium Development Goals (MDGs) (Hunt and MacNaughton, 2006).

In addition, many take a rights-based approach to impact assessment. For example, in Sweden, child impact assessment is linked through statute to the implementation of the UNCRC, from national through to local government, in particular Article 3 (the best interests of the child). Articles 2 (non-discrimination), 6 (child survival and development) and 12 (the child's right to express his or her views) are also considered relevant. The Flemish model is also governed by legislation (Payne, 2007).

#### Box 3: Rights Based Approach to Development

'A rights-based approach to development describes situations not simply in terms of human needs, or of developmental requirements, but in terms of society's obligations to respond to the inalienable rights of individuals; empowers people to demand justice as a right, not as charity; and gives communities a moral basis from which to claim international assistance when needed.' (Kofi Annan, United Nations Secretary-General, 1997-2007)

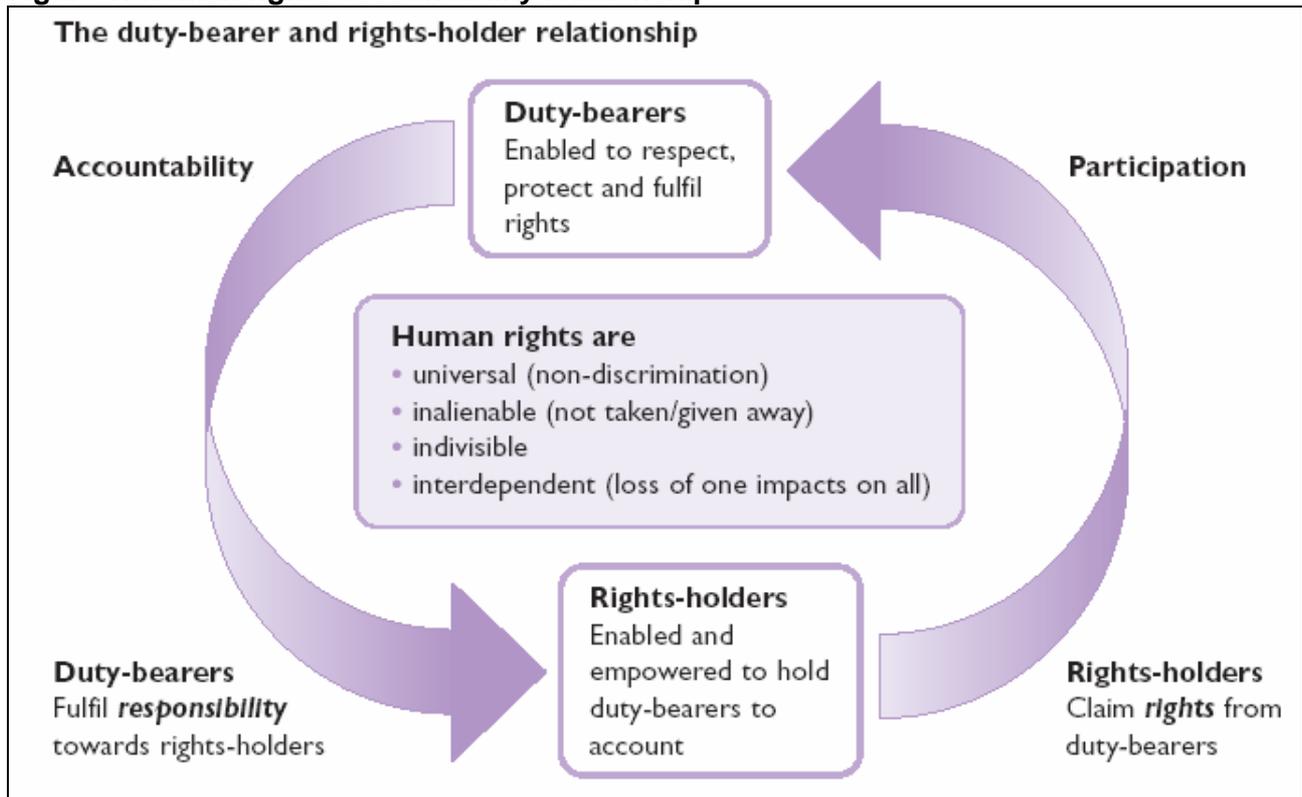
#### UN Common Understanding on Human Rights Based Approach (HRBA)

1. All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights.

Source: UN (1998) and OHCHR (2003)

The UN Common Understanding on HRBA sets out the key feature of a rights based approach to development including the reference to the international human rights instruments, human rights standards and the capacities of 'duty bearers' to meet their obligations. This places the notion of accountability at the heart of a rights based approach to development: duty-bearers are accountable to rights-holders for the realisation of the rights-holders' rights. This is depicted in the diagram below.

**Figure 1: Human rights accountability relationship**



Source: Save the Children (2007).

A rights-based approach for eaHRIA and CRIA has implications for both the content of the assessment and the process of carrying it out. In terms of **content**, it requires the assessment to examine:

- The universality and inalienability, indivisibility and interdependence and inter-relatedness of human and/or child rights. This means that rights work in conjunction with one another; no one right is more important than the others. This implies a holistic perspective, treating adults and children as whole human beings first, rather than fragmenting their lives into separate roles, e.g. working child, abused child, illiterate child.
- Duty-bearers' responsibilities towards rights-holders, ensuring that people's rights, as articulated in UN Conventions, are **respected, protected** and **fulfilled**. Note that duty-bearers include not only state parties but also different levels of, and institutions in, society, e.g. families, community, civil society, local government, national government, the private sector and so on.

In terms of **process**, it requires a focus on the key human rights principles of equality and non-discrimination, participation and inclusion and accountability. The assessment needs to involve rights-holders – and critically, those that will be affected by the decision – in the process of identifying potential impacts and examining both positive and negative impacts. This needs to be done in a meaningful (rather than tokenistic) way. It is about human agency and the power to affect decisions that have direct or indirect repercussions for the fulfilment of human and children's rights. It is about not just speaking out, but also children's views being actively sought by those who have power to make decisions that will affect them.

Despite claims in the literature about taking a rights-based approach to impact assessment, how this manifests itself in practice is less clear (see below). Another important point to note is that there are alternatives to a rights based approach for expressing the potential impact on children. For example, these could be articulated as impacts on children's living conditions (Birdi et al., 2007) or on their wellbeing. Although it goes beyond the scope of this paper to examine alternatives to rights based ealAs, it should be recognised that these alternatives could offer some potentially useful and complementary perspectives.

### 3.1.2 Object of the Assessment

The theoretical literature argues that eaHRIA and CRIA are tools for examining and determining whether existing and proposed policies, legislation, programmes, changes in administrative services and decisions will impact on adults and, in the case of eaCRIA, on children and specifically whether they effectively protect and assist in the implementation of the rights expressed in the normative framework of human rights law and in the UNCRC. They attempt to predict and monitor potential negative and positive impacts, and, if necessary, avoid or mitigate negative impacts as well as promote positive impacts. The literature also argues that assessment should be conducted on policies or decisions not directly or obviously concerned with rights and/or children, such as those on transportation, social security, taxes, private sector development, trade and environmental issues, although in practice this does not often happen. For eaCRIA in particular, the aim is to make children visible in the policy development processes throughout government (Corrigan, 2006; Paton and Munro, 2006).

In practice, eaCRIA have assessed bills (in England since September 2004, 11 bills have been assessed, including: Clean Neighbourhoods and Environment Bill, Identity Cards Bill, Education and Inspections Bill, Criminal Justice and Immigration Bill and Mental Health Bill – Payne, 2007) and policies (e.g. in Scotland – Paton and Munro, 2006) that are either directly or indirectly related to children. The Flemish model is limited to draft acts that will have a direct impact on children. According to Swedish legislation, all government decisions affecting children (budget decisions, legislation and decisions related to the physical environment) are to be subjected to a child impact assessment. It is important to note that the models of all-encompassing eaCRIA carried out by government on each law or policy affecting children may not be applicable to low- and middle-income countries where government capacity is more limited.

Examples that fall outside of the work of government include an eaCRIA of electricity price changes in Bosnia Herzegovina by UNICEF. This did not take up a specific rights focus and instead expressed potential impact as an impact on children's living conditions as well as looking at the impact of projected price increases on service providers' ability to continue to provide services to children.

General HRIA have focused on examining whether programmes are consistent with the human rights obligations of the partner country, whether they strengthen human rights awareness within the target population and other people affected and whether they empower target groups and other people affected to enjoy their human rights (Norad, 2001).

Health HRIA have analysed policies that are intended to affect health rights and also policies that do not intend to affect health rights but may have an impact on health rights (HOM, 2006). They are used to aid governments in complying with their legal obligations to progressively realise the right to health (Hunt and MacNaughton, 2006).

For business eaHRIA, the focus tends to be on business operations (planning and management processes) or strategy and policy development. They look at this mainly from three angles: risk – of contravening rights and the implications for the company; compliance – with international human rights laws and standards; and impact – on the company and on the communities where they work or on the host country.

### 3.1.3 Key Questions

Most eaCRIA models as documented (McCormack, 2005; Paton and Munro, 2006; Payne, 2002), present relatively broad questions regarding the following:

#### *Impact on children*

- Will this have any direct implications (positive or negative) for children or children's issues?
- Will it have any indirect (positive or negative) significant effect on children?
- What impact will this have on the general welfare of children?
- Is this the best way of responding to children's needs?

- What compensatory measures may be needed to avoid/mitigate a negative impact on children and young people's rights?

#### *Impact on compliance with international and national instruments*

- How does the proposal relate to, promote, inhibit or contravene the provisions of the UNCRC or any other relevant international treaty or standard?
- How does the proposal relate to the Committee on the Rights of the Child's Concluding Observations on the country's implementation of the UNCRC?
- How does the proposal contribute to the achievement of any goals identified by the government in relation to children and young people?
- Does the proposal incorporate general principles and articles of the UNCRC?
- Is the proposal the best means of achieving its aims, taking into account children's rights?
- Is a UNCRC analysis (e.g. a country report to the Committee) available? If so, is it adequate? If not, is one required? Should the current UNCRC analysis be progressed?

#### *Impact on different groups of children*

- Will the rights of one group of children and young people be more affected than those of another group of children?
- Are there any competing interests between groups of children, or between children and other groups?
- Effects of the proposal unique to children and young people as opposed to rest of the population?

#### *Impact on others that work on children's issues*

- Will this adversely affect other policy areas, agendas, agencies or others in their work with children?

#### *Have children been involved?*

- Are key organisations and individuals including children involved in development processes?
- What do children and young people think about this proposal?
- How were the views of children and young people ascertained? Does the policy reflect this?
- Is there a need to ascertain the views of children and young people?

#### *Other questions*

- Is there disagreement as to the likely impact of the proposal on the rights of children and young people?
- Who has taken a stand for/against it/ expressed concerns?
- How should the measure be monitored?
- Have they put into place planning for the implementation and evaluation of the policy?
- What costs and benefits will the proposal entail?
- What is the timescale for response/action?
- Is there a need to set up a working group to take forward the proposal/alternative proposal?

They usually ask whether doing nothing would be more beneficial for children or whether alternatives to the proposal could be suggested.

General HRIA follow similar lines, possibly with more of an emphasis on looking specifically and explicitly at the impact of a policy on rights principles such as non-discrimination and equality (What is the programme's assumed/actual impact on equality and non-discrimination?), participation (Does the programme promote/has it promoted participation in decision making of groups affected) and the right to information (Has the population directly affected been informed about the programme?) One model asks about impact on other rights, including the right to just and favourable conditions of work, the right to an adequate standard of living for target groups and other affected people, including access to adequate food and continuous improvement of living

conditions, and effects on people's opportunities to provide for themselves in terms of income generation activities (Norad, 2001).

However, these broad questions do not necessarily get the user very far in the analysis. Each question would require a further set of questions to define exactly what is meant by, for example, 'just and favourable conditions of work'. An analysis of the constituent components that would contribute to just and favourable conditions of work would be needed in order to produce questions to check whether such conditions existed or were likely to be affected.

One model that goes a long way towards 'unpacking' the right under examination comes from the field of health HRIA. Health HRIAs focus on health rights, and ask whether the programme (etc) will impact on the right to health as defined in international human rights law.<sup>4</sup> The model produced by the UN Special Rapporteur on the Right to the Highest Attainable Standard of Health focuses on four interrelated and essential elements of the right to health: i) availability; ii) accessibility; iii) acceptability; and iv) quality, as well as six other concepts that are crucial to the right to health: i) progressive realisation; ii) core obligation of a state; iii) non-discrimination and equality; iv) participation; v) access to health information; and vi) access to effective mechanisms of accountability. It asks questions on each of these elements and concepts with respect to health goods, facilities and services and the underlying determinants of health (Hunt and MacNaughton, 2006). The real value of this tool is that it breaks down 'impact on the right to health' into its component parts, giving a much more in-depth understanding of the likely effect of the programme (etc) on the different factors that affect the right to health.

For business eaHRIA, questions vary according to the context, but focus primarily on the potential human rights challenges for the business. This could be issues of human security, employee rights, labour standards and protection, societal rights and civil and political rights. The focus is usually on potential impact, compliance, mitigation and reputational risk. For example, an assessment might take each right, define the responsibility of the company and ask questions about risk and compliance, in relation to the workplace, the community or the supply chain (Lenzen and d'Engelbronner, 2009). It might also look at the potential impact on other related policies, measures and regulations and other departments, structures and institutions.

#### **3.1.4 Timing of eaHRIA and CRIA**

Like with most other types of ealAs, most eaHR and CRIA models suggest that the IA be conducted as early as possible in the process. For business HRIA, most models are designed for use early in the planning phase (e.g. to identify key conflict issues at the pre-investment phase – Lenzen and d'Engelbronner, 2009), although they can be used when major changes in the operations are planned or in operational projects.

#### **3.1.5 How is the Assessment Carried Out?**

The models reviewed here provide little in-depth description of the steps taken or the methodologies used. Since each situation could be seen as unique, it is possible that relevant methods and tools can be decided on only once there is a clearer sense of what needs to be measured.

##### *Steps*

Some models begin with an initial screening (Scotland – McCormack, 2005; England – Payne, 2007) to check whether the proposal contravenes the UNCRC or places children at risk of adverse impacts. If thought serious enough, the assessor may recommend a fuller assessment, although this happens only in a minority of cases. The eight-stage process used by the Scottish

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<sup>4</sup> 'The right to health is the right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health. The right includes both health care and the underlying determinants of health, including access to potable water, adequate and safe food, adequate sanitation and housing, healthy occupational and environmental conditions, and access to health-related information and education' (CESCR, 2000).

Commissioner for Children and Young People (SCCYP) is described in Box 4. Other eaCRIA follow a similar step-by-step approach.

#### **Box 4: The eight-stage process in the SCCYP eaCRIA**

1. Identify what is being assessed
2. Map the proposal against its suggested goals
3. Gather relevant information and evidence
4. Consult with stakeholders, including children and young people
5. Analyse the proposal for its potential impact on children and young people
6. Make recommendations to rectify potential conflict with UNCRC or possible adverse effects on children
7. Publicise results
8. Monitor what occurs as a result of this process having taken place

*Source:* Paton and Munro (2006).

In England, a legalistic approach is taken, which implies a comparison between proposed legislation and the text of the UN CRC. The first step is to do a clause-by-clause review of the legislation once a bill has been published (called First Reading), comparing it with the government's stated intentions in order to determine its likely effect on children and young people, using as a framework the UNCRC and the Human Rights Act 1998. If specific concerns are raised as part of that initial child impact process, lawyers at the Children's Legal Centre draft more substantive legal scrutinies to investigate potential human rights issues, and compare the proposal with other legislation as well as any relevant case law. In some cases, the assessors host a stakeholder seminar to which expert practitioners, academics, parliamentarians and civil servants are invited to discuss the findings of the child impact process, and to take forward any agreed actions. The project produces and distributes child impact statements in the form of parliamentary briefings in time for the first general debate on the provisions in the bill (called Second Reading) (Payne, 2007).

Typical steps suggested for health and business HRIA are seen in Boxes 5 and 6.

#### **Box 5: Steps for a Health HRIA**

1. Identify the policy
2. Identify the government commitments
3. Describe the capacity for implementation
4. Assess the impact on health rights
5. Draw links between steps 2 and 4
6. Generate recommendations and the action plan

*Source:* Hunt and MacNaughton (2006).

#### **Box 6: Steps for a Business HRIA**

1. Describe the (proposed) business activity
2. Consider the full lifecycle of the business
3. Map international, national (home and host country) legal framework, including standards, conventions, requirements of financiers, internal company policies, indigenous customary laws and traditions
4. Describe the human rights conditions in the surrounding area
5. Describe the baseline conditions
6. Describe the view or multiple scenarios of the possible changes owing to the business activity
7. Look at risk, compliance and impact
8. Produce recommendations and carry out ongoing monitoring

*Source:* Lenzen and d'Engelbronner (2009).

#### **Methods**

Few documents provide detailed explanations of methods used, although they sometimes refer to the use of both quantitative and qualitative data such as government statistics on school attendance, health indicators, public enquiries, etc. Most models rely on using existing relevant data and on making recommendations on other data required. Primary data collection tends to involve consultations with stakeholders (which can include communities, children and young people, government and 'experts') and analysis against existing human rights laws. However, even in these instances, it is not clear exactly how these consultations or analysis are undertaken.

Interestingly, engagement with different stakeholders is pushed most strongly by business eahRIA and is seen as essential for the quality of the impact assessment. These link engagement with stakeholders and transparency, arguing that stakeholders must have adequate and timely access to all relevant information in a language that is understandable to all, and that it should be made clear to them what an HRIA assessment will look at and what it will miss out as well as why it is being undertaken for some projects and not others. As well as ensuring that stakeholders' views are properly represented in the assessment, there are secondary reasons why stakeholder involvement is seen as important in the business sector. A transparent participatory process is likely to result in better relationships between the company and communities (or other stakeholders) and strengthened social cohesion, which could be argued to be of benefit to the company in the long run. However, it is also recognised that the type of participatory process required to achieve these goals is not often put in place.

Other methods mentioned explicitly include: household surveys, focus group discussions, maps, graphs, use of quantitative and qualitative indicators, political analysis and statistical techniques, but no further information is provided. Possible alternative but complementary methods, such as epidemiological approaches, mathematical modelling or econometrics, scenario mapping and so forth are not mentioned, yet they could be useful tools in certain circumstances.

### **3.1.6 Who Is Involved In Carrying Out the Assessment?**

Assessments are usually commissioned by the body taking the decision. There are examples of governments (e.g. the Flemish version is overseen by a government minister; in England it is the Office of the Children's Commissioner) and corporations (field managers, functional area managers, company managers, corporate citizenship managers, investment officers and auditors, staff in political risk, security, external relations and social performance departments) (Lenzen and d'Engelbronner, 2009) carrying out assessments, as well as non-governmental organisations (NGOs)/multilateral organisations (see Birdi et al., 2007; HOM, 2006).

However, most of the literature reviewed here points to the importance of involving experts in the process. Hence, teams that actually carry out the assessment are often comprised of internal experts and non-experts<sup>5</sup> and external experts (who might carry out the entire assessment on behalf of someone, such as the National Children's Bureau in England, or may carry out certain steps or provide expertise as necessary). Expertise required will vary according to what is being assessed, but might include experts on human or children's rights in a particular sector (e.g. health) or industry (e.g. the extractive industry), in the local context and in different types of methodology (e.g. quantitative and qualitative), including participatory methodologies.

Many also argue for the need for independent scrutiny. This may come from external experts, but can also come from the communities that will be affected by the decision. As a result, most assessments will at least consult with local communities. At best, they will provide for expert interaction with communities, to help communities understand and express concerns about potential impacts on their human rights in such a way that the communities themselves are essentially carrying out part of the assessment (Lenzen and d'Engelbronner, 2009).

### **3.1.7 What use is made of the assessment once completed?**

Few models are explicit about who might use the results of these assessments or how, or indeed about whether results have been used and what the outcome of this has been. For eaCRIA, state actors, such as children's ombudspersons (e.g. in Scotland, England and Sweden), parliamentarians of all parties who have expressed an interest in children's issues, committees on human rights, relevant policy leads in the civil service, children's commissioner staff and the most appropriate government ministers are cited as some of the key audiences. Non-state actors, such

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<sup>5</sup> If non-experts are to carry out the work by themselves they usually use self-guided tools or materials (e.g. Norad, 2001, DIHR, 2004 or EC, 2004).

as children and youth lobbyists or CSOs, are also encouraged to make use of the child impact materials (Payne, 2007), although it is less clear how they might do this.

For the health HRIA models, results can either be used internally within governments or by NGOs (specifically health, women's and human rights organisations) to lobby governments (Hunt and MacNaughton, 2006), as well as other institutions such as the World Bank or the Commission on the Status of Women. They can also form the basis for a shadow report to the Committee on Economic, Social and Cultural Rights (CESCR) or the Committee on the Elimination of Discrimination Against Women (HOM, 2006). Health HRIA suggests that a draft report be circulated to all stakeholders for comment and debate before a final draft is produced, which deals with issues raised during this consultation period. The final report should also explain how the policy will be monitored (Hunt and MacNaughton, 2006).

For business-related HRIA a wide variety of people might use the results, including planning and management teams within businesses at project or corporate level as well as communities affected by the business. Some models are more applicable to large-scale projects or large companies and others are quite specific to certain types of business, such as the Conflict-sensitive Business Practice model, which is aimed at projects within the extractive industries in settings with potential conflict (Lenzen and d'Engelbronner, 2009).

In terms of the finished product, a report is usually written by the team carrying out the assessment. Box 5 shows what this might typically include. Interestingly, the only example found of communities and community representatives being directly involved in producing the final report was found in the business sector, in the Community Human Rights Impact Assessment (Lenzen and d'Engelbronner, 2009). The business HRIA literature is also more explicit about how the findings of an assessment might be practically used.

#### **Box 7: Use of business HRIA results**

- Integrates recommendations into a management plan or system
- Monitors the baseline indicators during the entire process
- Includes company action and collaboration with government and local community in its recommendations
- Makes practical recommendations to address human rights risks
- Makes sure that human rights protections are built into agreements and contracts with government and suppliers
- Discusses good practices with peers in the industry and/or companies in similar situations
- Publishes the HRIA in full or as complete as possible considering reasonable potential risks
- Recognises that the process of carrying out an HRIA is as important as the final report and working with the findings of the assessment.
- Internalising and institutionalising

*Source:* Lenzen and d'Engelbronner (2009).

### **3.2 How do they compare with other forms of ealA?**

#### **3.2.1 Why do Them?**

Both HR and other forms of ealA are carried out to help agencies make better decisions and improve policy (etc) design, following the aims laid out in Section 2, although it could be argued that eaHRIA focus more on minimising negative side effects or 'doing no harm'. There is also value to be gained from the process of carrying out the assessment, such as by improving the decision-making processes (building capacity, making sure decisions are evidence based, increasing transparency and participation) and enhancing the chance of policies being adopted. Learning, 'due diligence' and advocacy and awareness raising are also purposes of both HR and other forms of ealA, although this is more implicit in the literature on eaHRIA.

#### **3.2.2 Assumptions**

Framing assumptions on how an ealA is conceived, carried out and institutionalised apply to eaHRIA as much as they do to other forms of ealA. The choice of disciplinary lens is a value

judgement and says a great deal about what is considered important in the first place (e.g. if you use epidemiology to study something then you will get an 'epidemiological' answer). Different understandings of causality (simple cause and effect models such as  $x \rightarrow y \rightarrow z$  vs. more complex models that recognise different paths of influence or interactions between different factors) will also determine what is considered and how an assessment is conducted. It could be argued that, since for eaHRIA the indivisibility and universality of rights must be a guiding factor, the causal chain is likely to be fairly complex, so simple cause and effect models would be less relevant.

### 3.2.3 Whether to do Them

For eaHRIA there do not seem to be any specific criteria. Rather, this seems to be left to the discretion of the decision-making body (unless, for example, there is a regulation that specifies the need to do one, such as in Swedish legislation, although it is not clear that one is always carried out on all Swedish government decisions) or based on pragmatism (e.g. in England eaCRIA are carried out on bills rather than policy, for pragmatic reasons – Payne, 2007). Lessons from other forms of eaIA could be used to help guide decisions on timing for HRIA, with the decision based on factors such as significant impact, strategic importance or potential influence.

### 3.2.4 Process/approach

The steps proposed for all types of eaIA are quite similar, as they mostly involve a scoping stage, actual assessment, recommendations, dissemination of findings and monitoring or follow-up.

### 3.2.5 Methods and Tools

Many authors in both HR and other forms of eaIA argue for using both quantitative and qualitative methods and integrating them in sequential and iterative approaches, although this is difficult to implement. A broader range of methods are described in the literature on other forms of eaIA – with more of a focus on quantitative methods, although qualitative methods are also mentioned. The eaHRIA literature places more emphasis on qualitative methods. Tools such as checklists and impact chains are suggested for both HR and other forms of eaIA, whereas flowcharts and matrices are postulated for other forms of eaIA only. The degree to which questions and methods are fixed varies. Some HR and other forms of eaIA are seen to give guidance for an 'approach'; others may require the assessment to use an explicit template. Alternative methods, such as scenario mapping, which aims to predict outcomes based on a variety of possible future scenarios, are not mentioned at all. Although potentially some of the existing rights-based approaches and tools for programming,<sup>6</sup> including M&E tools, could be useful to address impact in rights, including underlying causes of violation and denial of rights, there is little evidence that HRBA tools are currently being used for these purposes.

### 3.2.6 When to carry them out

The question of when to carry them out is not dealt with substantially in the literature on eaHRIA. Broad consensus is that they should be carried out as early as possible in the decision-making process. There is much to be learned from the literature on other forms of eaIA about taking into consideration the political economy of decision-making processes (see Section 2).

### 3.2.7 Who carries them out and what gives them good quality

Again, the literature on eaHRIA does not go into much detail about who should carry out assessments, or discuss the factors that might help/hinder their quality. There is much that can be learned from others' experience of carrying out eaIA, and this is expanded on in Section 4 below.

### 3.2.8 What is distinct about HRIA?

There are many similarities between eaHRIA and other forms of eaIA, but one thing clearly distinguishes HR from other forms of eaIA. This is that eaHRIA uses the **human rights framework of international legal obligations**, to which governments have agreed, as their point of departure. This has some clear implications, which will be further explored in Section 4, as they are at the heart of taking forward CRIA in practice.

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<sup>6</sup> See here for examples of HRBA tools <http://www.undg.org/index.cfm?P=221>.

### 3.2.9 What is missing from current CRIA?

As was intimated at the beginning of this section, HR and CRIA are still in their infancy and the models that have been used to date still do not address certain challenges, including:

- There is **little detail on how to interpret or define rights**. In order to assess whether rights are likely to be respected, protected, fulfilled or not, it is necessary to have a clear conceptualisation of what rights means in practice. Like other human rights conventions, the UNCRC does not provide sufficient explanation of each right to be able to do this<sup>7</sup>, although the guiding principles are to be used as guides to interpret and implement all CRC articles as well as to resolve any conflict in the implementation of CRC provisions (Collins and Pearson, 2002). Nevertheless, it is argued by many that rights need to be interpreted within any given context; they need to be 'translated' into something more practical and meaningful so that you move from the legal language used in the Convention to ordinary language used by local, regional and national authorities (see, for example, Holmegard, 2001; INTRAC, 2004; Landman and Häusermann, 2003). It should also be noted that some rights are easy to define and measure (for example, the classification of torture and the ill-treatment of prisoners), whereas the definition of other violations is less clear cut and lacks guidance from authoritative organs. For example, the scope of the State obligation to make information about public policies available to the public is not clearly defined by international law (NORAD, 2001). One good example of how to 'unpack' a right is given in Section 3.1.3 above for the right to health (Hunt and MacNaughton, 2006).
- **There is little guidance on which rights to focus on**. Even if a right has been broken down into its constituent parts sufficiently to be able to assess whether it is likely to be respected, protected and/or fulfilled, there is also the challenge of which rights to focus on. Assessing impacts on all the rights found in the UNCRC is a daunting task. One option could be to group rights and assess a programme, policy, etc. under these groups (see Section 4 below).
- **Don't address potential impacts concretely**. What is missing from the tools is information on child rights for the non-specialists and information on potential impacts. Without some hints the non-expert (and even experts) and children may be at a loss or miss important considerations of potential impacts. There is a need to **provide a sufficient range of examples** of potential impacts, perhaps on a sectoral basis, to be sufficiently informative without being exhaustive.
- There are few, if any, **links to the expert literature** on the topic in question.<sup>8</sup> This could be expert literature specifically relating to children's rights, standards and norms, but could also be expert literature in relevant sectoral areas, for example, linking transport policy options to expert literature on the impact of a particular issue, such as exhaust fumes, on children's health.<sup>9</sup> The idea of creating an expert literature database for impact assessments is clearly an ambitious one. Whilst it is beyond the scope of this paper to provide an exhaustive list of where to find resources of this sort, any list would include the Child Rights Information Network (CRIN)<sup>10</sup> which contains many resources and expert literature on children's rights, by country and by theme, UNCRC reports and the Committee's General comments.<sup>11</sup>
- Most models do not address the **need to establish a 'baseline'** from which to measure future impacts, nor do they address what this would look like from a rights perspective (the

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<sup>7</sup> It should be noted that some degree of guidance is provided by the General Comments to the CRC, the 'Days of Discussion', the CRC Committee reporting guidelines and the UNICEF Implementation Handbook for the Convention on the Rights of the Child

<sup>8</sup> The exception is the CRIA in Bosnia Herzegovina approach (Birdi et al., 2007), which is clearly linked to the expert technical literature and existing data but less explicitly linked to the UNCRC framework.

<sup>9</sup> Ideally, the standards set in sectoral expert literature should be directly linked to international legal norms, yet this is rarely the case (Landman and Häusermann, 2003). However, it should be noted that for some rights these legal standards do not exist currently (Norad, 2001).

<sup>10</sup> [www.crin.org](http://www.crin.org).

<sup>11</sup> <http://www2.ohchr.org/english/bodies/crc/comments.htm>.

Bosnia Herzegovina model discussed in Section 3 is an exception to this). However, it should be recognised that it may be especially difficult to develop a methodology that can be used universally to understand the current situation, particularly if rights need to be interpreted within each context (as in is argued above).

- The literature does not address the tricky **problem of impacts that may violate children's rights**. There is no substantive discussion on what should be done if a right is likely to be violated (for example, can rights knowingly be violated in advance if compensation is offered?), nor are links made between the usual responses to potential negative impacts (mitigation and compensation) and human rights concepts. It would be helpful to have some 'bright lines' drawn that would help policymakers identify where they cannot go. Some of the literature touches briefly on the issue of conflicts of rights or among groups that may be affected, but it does not give any indications to the policymaker about how to address this quandary.

While the following section aims to address some of these issues, it should be recognised that no single tool is likely to meet all of the above challenges. Rather, what would be more appropriate and realistic is a set of analytical tools that in combination help overcome these challenges.

## 4. Towards ex-ante Child Rights Impact Assessment

UNICEF defines child impact assessment as follows: 'A child impact assessment involves examining existing and proposed policies, legislation and changes in administrative services to determine their impact on children and whether they effectively protect and implement the rights expressed in the Convention on the Rights of the Child'.<sup>12</sup> In this section, we focus on the ex ante component of Child Rights Impact Assessment, i.e. on proposed and planned policies, legislation and administrative services.

### 4.1 Why eaCRIA?

Based on the analysis above, the motivation and justification for developing an eaCRIA are clear: i) existing eaIA, including eaHRIA, do not adequately cover important child rights issues, for example equality or protection; ii) children are often overlooked by eaIAs; iii) the impact of laws and policies on children is not known, information is scarce and children are rarely directly involved in assessing potential impacts on them. It is also important to recognise that children are often at most risk to different vulnerabilities and that eaIAs can help to draw out those differentiated vulnerabilities which, in turn, can help avoiding negative impacts of policy decisions on children ('do no harm'); iv) the impact of development policies and programmes on children is often different from the impact they have on adults. The fact that much of existing impact analysis focuses on the household level or on specific groups of adults (e.g. women) often risks overlooking specific impacts on children and (v) children are largely excluded from political processes – and often not visible to those in power – they do not vote and they do not pay taxes.

Furthermore, the Committee on the Rights of the Child recommends that all countries conduct an eaCRIA on any decisions being made by government. In particular, they should be undertaken in the adoption of any form of new policy or guidelines in different activities, new legislations or regulations, annual budgets, at national, regional and local level, and organisational or administrative changes at all levels of society.

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<sup>12</sup> [http://www.unicef.org/crc/files/Implementation\\_guidelines.pdf](http://www.unicef.org/crc/files/Implementation_guidelines.pdf) (accessed 21 April 2006).

## 4.2 Expectations of an eaCRIA

This section tries to set some boundaries for an eaCRIA by focusing on what, in the current climate, it might most profitably be used for. There are a myriad of potential purposes and users of eaCRIA, but there is a need to manage expectations and concentrate on where eaCRIA can add the greatest value, especially at this early stage.

One of the key purposes of conducting an eaCRIA is to **get children on the agenda and to promote and embed children's rights** in the minds of decision and policymakers, whether government, bilateral and multilateral agencies, private companies or civil society. eaCRIA would enable this to happen by offering a framework and processes that provide more and better knowledge of what impacts decisions will have on children. Conducting eaCRIA could have other potential purposes, such as:

- **UNCRC monitoring:** Enhancing compliance with and fulfilment of state obligations and progressive realisation of child rights. They could be used by the Committee on the Rights of the Child to check compliance or by governments to demonstrate compliance. The completion and publication of CRIA can act as a public commentary on the implementation of children's rights and the UNCRC. Alternative reports (usually conducted by civil society organisations) submitted to the Committee could provide valuable sources of information for CRIA, since they usually look at ex-post impacts on children's rights of government decisions. They could be expanded to include more information on ex ante impacts.
- **Holding duty-bearers to account** for decisions they take that affect children and young people. CRIA could be used by civil society to hold state actors to account or by states to hold non-state actors to account (e.g. private corporations).
- **Advocacy and awareness raising:** Increasing awareness of the UNCRC and other relevant international instruments. For example, the production of child impact statements and legal scrutinies in England increased parliamentarians' knowledge and awareness of international standards and norms relating to children and young people. They can also remind authorities of their UNCRC obligations and encourage policymakers to ensure policies are CRC compliant; increase awareness of particular issues that can have significant impacts on children within or among organisations; and draw attention towards (possibly negative) impacts of proposed courses of action.
- **Learning and evidence-based decision making:** Improving decision makers' understanding of problems and of the consequences of different courses of action by using evidence of potential impacts on children. This would help them think through and formulate policy options based on evidence and promote more reasoned decision making.
- **'Due diligence':** Demonstrating that sufficient attention has been paid to key issues. CRIA could be used by governments or private corporations to legitimise decisions or courses of action and to help ensure policies (etc) are approved and implemented.
- **'Do no harm':** Analysing risks and avoiding or mitigating any negative impacts that policies (etc) may have on children.
- **Increasing participation:** Better involving children in decisions that affect them.
- **Reaching the most vulnerable and marginalised:** Ensuring that the most vulnerable and/or marginalised children are considered by encouraging a view of children as not being a homogenous group; understanding multiple forms of discrimination and the indivisibility of rights.
- **Improved coordination across government departments:** Identifying issues that inhibit shared policy development across government departments; breaking through departmental barriers and encouraging the coordination of agendas in, for example, health, social care and justice.

Table 1 shows which purposes are most likely to be relevant for which group of potential conductors and users of eaCRIA.

**Table 1: Purposes of eaCRIA according to user**

	<b>CRC Committee</b>	<b>Government</b>	<b>Multilaterals</b>	<b>Bilaterals</b>	<b>Civil society</b>	<b>Business</b>
UNCRC monitoring	X	X			X	
Holding duty-bearers to account	X	X	X	X	X	
Advocacy/awareness raising	X	X	X	X	X	X
Learning/evidence-based decision making		X	X	X		X
Due diligence		X	X	X		X
Do no harm		X	X	X		X
Participation		X	X	X	X	X
Reaching the most vulnerable		X	X	X	X	X
Coordination across departments		X	X	X		X

While these purposes are not necessarily mutually exclusive, and they can serve various groups' agendas, it would be disingenuous to try and serve all of these purposes simultaneously. It is quite possible that the theoretical underpinnings and the practice of conducting an eaCRIA would be different depending on its main purpose and on its main target audience. This should be born in mind when developing eaCRIA: a 'one size fits all' is unlikely to work and is unlikely to be taken up widely (see Section 4.3).

### **4.3 In practice: Options for the way forward**

In laying out the options for developing CRIA in practice, it is important to take into account the key factors outlined above. In particular, the following is at the heart of our proposed approach to CRIA:

- Children, and children's rights in particular, are often missing from existing ealAs and there is a need to bring impacts on children onto the agenda of different institutions and organisations.
- Child rights principles should be the basis for the structure, content and process of CRIA.
- Being realistic about the balance between depth and scope of CRIA is critical. Choices will need to be made to achieve this balance and to make sure that CRIA is a useful tool for the different audiences it aims to reach. These choices might include prioritising specific policy area or sectors (e.g. health, infrastructure, justice, etc.) where impact of children is likely to be more significant.
- CRIA needs to be tailored to the different audiences that it seeks to address and its potential use and application need to be considered from the outset.
- The process for developing the tool is as important as its final content: ideally, key stakeholders who will be using the tool should be involved in its development.
- It is necessary to identify champions and secure buy-in from CRIA users, i.e. the actors, organisations and institutions that are likely to carry out CRIA or use its results/findings.
- UNICEF involvement and commitment are critical through the process of developing, testing and using CRIA. No other organisation will have the influence and the mandate to make sure that children's rights are on the radar of development organisations and governments around the world: CRIA is an important way/mechanism to make this happen.

There are two main options for developing a CRIA: i) a 'standalone' model, i.e. a generic tool for assessing impact on children's rights to be potentially applied to any new legislation, policy or programme and by any organisation or institutions; and ii) an 'embedded' model, i.e. a combination of specific, but separate, components to be tailored to specific issues, sectors and organisations which, when possible, should form part of existing or planned impact assessment, which would otherwise not include children or would not focus on children's rights.

Clearly, there are advantages and limitations in each of these two approaches. However, based on our analysis of what is needed to ensure that eaIAs deliver useful results and contribute towards changing practice, and in line with what emerged in similar attempts to develop rights-based impact assessment (Hunt and MacNaughton, 2006), we propose the ‘embedded’ model as the most suitable for developing a CRIA. This is for two main sets of reasons:

- **Pragmatic reasons:** To ensure that CRIA is on the agenda of organisations and institutions that are likely to conduct impact assessment of their policies, laws or programmes, by including impact on children’s rights, and children more generally, in their existing tools, processes and practices.
- **Substantial reasons:** By focusing individual components of CRIA on selected policies, sectors or processes (e.g. programming cycle, policy development, evaluation, planning as well as impact assessments), it is far more likely that the information generated will be specific enough and of sufficient depth to be applied/used in practice.

One possible exception that could justify developing a standalone CRIA, rather than embedding eaCRIA into existing mechanisms, is the area of child protection, or ‘do no harm’. There is a case for developing a standalone tool that explicitly addresses this, since it could be argued that at the very least, all new programmes, policies, legislation, decisions, etc should anticipate and mitigate against doing children harm. Further discussion of what a ‘do no harm’ eaCRIA might look like can be found below.

#### **Box 8: Why mainstream HR impact assessment? Example on the right to health**

Incorporating human rights impact assessment into existing methodologies and practices has been discussed and proposed in other attempts to develop eaHRIAs. Hunt and MacNaughton (2006) for example suggest the following in relation to the right to the highest attainable standard of health:

*‘In designing a methodology for human rights impact assessment, we have considered two overall approaches. The first approach is to propose a self-standing methodology for human rights impact assessment. The other approach is to propose a methodology for incorporating human rights into existing impact assessment methodologies. We have decided to embark on this second approach for two reasons. First, we think it more likely that governments will integrate human rights considerations into impact assessments that they are already carrying out, than to undertake an entirely separate human rights impact assessment process in addition to those that they already do. Second, by proposing that human rights factors should be folded into other methodologies, this project is consistent with the consensus that human rights must be mainstreamed into all government processes’.*

Source: Hunt and MacNaughton (2006)

The main advantages of adopting an embedded model for the CRIA are that it allows for targeting of specific audiences and building on existing or planned processes. It also allows for engagement with the potential users of CRIA while developing and testing the tool, rather than at the end of the process. The embedded model also brings child rights onto the agenda of organisations that would not normally consider impacts on children.

As with all other forms of mainstreaming human rights into existing policies, programmes or processes, this approach has some potential limitations. In particular, there is a risk that CRIA ‘goes unnoticed’ or that it is carried out as a matter of routine or paid lip service to, without really becoming engrained in the processes, incentives and decision making of an organisation or institution. To avoid this, special attention will need to be paid to the processes and implementation of CRIA.

## **4.4 Components of CRIA**

### **4.4.1 Key Principles**

A rights-based approach to impact assessment must be explicitly based on a human rights normative framework. In the case of children's rights, the basis is provided by the UNCRC. It is important to note that the UNCRC is the most widely ratified human rights treaty, which implies that states have committed to specific legal obligations in relation to the rights of children within their national territory.

The following key human and children rights principles should be applied to the development of the various components of CRIA (adapted from Hunt and MacNaughton, 2006):

- **The guiding principles of the CRC: non-discrimination;** adherence to the **best interests of the child;** the **right to life, survival and development;** and the right to **participate** which overlap with many of the core human rights principles set out below.
- **Equality and non-discrimination:** Rights-based impact assessment means the principles of equality and non-discrimination must be considered at all stages and in all aspects of the impact assessment. For example, the principle of non-discrimination requires states to consider the likely impacts of proposals on different groups of children to ensure that a policy does not adversely affect a protected group. To do such analysis will require disaggregated information on potential impacts. This not only means distinguishing between impacts at the level of the household and impacts on children, but also looking at impacts on different children within a household; it requires having child centred statistics (see Section 4.3.2 above). In addition, assessing equality and non-discrimination means looking at the following issues with regard to marginalised and/or vulnerable groups: access to services; attitudes of those in power (e.g. policymakers, authorities, corporations, etc) and of communities; and participation (of vulnerable and/or marginalised groups).

#### **Box 9: Examples of what to measure for inclusion and non-discrimination**

Measuring the potential impact on inequality and discrimination should be central to CRIA. Some issues to consider could include whether the law, programme, policy, decision, will affect:

- Awareness, attitudes, behaviours and practices regarding issues of difference
- Families', communities', institutions' and society's openness to and tolerance and acceptance of diversity
- Duty-bearers' ability to challenge discrimination
- The equitable allocation of budgets and resources
- The capacity of duty-bearers to include marginalised groups (e.g. inclusive education)
- The capacity of excluded groups to demand their own rights
- Certain groups of children's (and their families') access to services
- The quality of services for certain groups of children
- How the media portrays vulnerable and/or marginalised groups
- The promotion of equity and the inclusion of all children in mainstream society.
- Which groups of people are included and which are excluded by the programme, policy, decision, etc? Were they excluded by design or by default?

Essential to measuring equity is **disaggregating data** to make excluded groups visible. Different groups of people are affected differently by policies and practices based on their differences. For example, a standard national curriculum is likely to represent the perspectives and priorities of the majority population, and as a result is biased against ethnic minority groups. To make excluded groups visible, disaggregate all data by gender, age, disability, ethnicity, caste, wealth and/or other relevant differences. Analyse how laws, policies, programmes and services affect different groups of people. Analyse budgets and expenditures by categories of people (gender, age, wealth categories, etc) to show inequalities in resource allocations.

Source: Theis (2003).

- **Participation and inclusion:** This would include incorporating children's ideas about what the eaCRIA should look at, ensuring that they have sufficient information about the CRIA to understand its purpose and how the results will be used, consulting them on their views as to how a particular decision might impact on them and feeding results back to them. There should also be mechanisms for children to hold to account those conducting the eaCRIA, both in terms of how it is conducted and in terms of how the findings are used. Rights-based impact assessment also requires the state to provide information on the proposed policy and on the

process of the human rights impact assessment to all stakeholders. This is particularly important in the case of children, who are often excluded from information processes and perceived as passive recipients of government decision making. Information should be available and accessible to all children which includes providing it in a child-friendly manner (for example, using simple language, pictures, video, mother tongue language, etc). Indeed, meaningful participation and effective accountability depend on having access to information, as well as the right to express views freely.

#### **Box 10: Example of what to measure under children's participation**

Children and young people's participation and citizenship can be measured in relation to their ability to: i) access relevant information; ii) demand their rights; and iii) influence decisions that affect them.

This can be divided into three types of impact:

- **Impact of participation on children:** On children's abilities, self-confidence, independent decision making, problem solving skills, etc. The quality of children's participation can be analysed, for example, by using the 'ladder of participation'.
- **Impact on adults and the wider community:** Relationships between adults and children; attitudes of adults; changes in the spaces that communities, institutions, and society provide for children's participation (i.e. networks, coalitions and movements for children rights support children to claim their rights).
- **Impact on the external environment:** This is particularly related to changes in policy and practice, i.e. policies and regulations are developed as a result of children's participation in decision making (e.g. initiative to clean up streets; use of public space for a youth centre, etc; budgets allocated to priorities identified by children).

*Source:* Save the Children (2003).

- **Accountability:** A rights-based approach also demands accountability. This means providing children with adequate and safe opportunities to claim their rights, including by voicing their concern through impact assessment. An example of this from the health human rights literature argues that this should include judicial remedies at both the national and international levels. Victims of violations of the right to health are 'entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition' (CESCR, 2000). In addition to judicial remedies, national ombudspersons and human rights commissions should address violations of the right to health (Hunt and MacNaughton, 2006). In the case of eaCRIA, these mechanisms could provide an avenue for children to hold those conducting the eaCRIA to account. In addition to these process issues, the eaCRIA should itself examine the impact of any decision on children's ability to participate in decisions that affect them as well as the impact on children's ability to hold duty-bearers to account
- **Best interest of the child:** Best interest can be hard to define. The Committee on the Rights of the Child has not yet specified exactly how **the best interests of the child** should be determined (Collins and Pearson, 2002). It has been argued that a reasonable first 'building block' is to say they are the sum total of the norms of the Convention, but there is need for much greater dialogue about what this principle means (in practice) and for the difficult questions about children's formative conditions to be asked more seriously. There are two important aspects of 'best interests' that should be considered. First, children's best interests need to be balanced against competing requests (e.g. the custodian's, the national economy's) – although ultimately the child is supposed to be paramount. However, currently there is a lack of debate on competing interests (Holmegard, 2001). Second, children's views need to be actively sought when deciding best interests. Children need to be asked what matters to them, what their wishes are, what they consider important, what aspects of their formative condition they think need changing and how they assess (as experts on their school, health, etc) these practical issues: only children themselves are in a position to indicate whether their rights are being fully recognised and realised, since they are often more aware of what is important in their lives than adults are.

#### 4.4.2 Key Dimensions

The principles outlined above are well-known and tested general principles underpinning rights-based approaches to development. These principles provide the basic architecture for a CRIA and should inform the key processes of data collection and analysis that the CRIA will put in place. However, they are arguably not sufficient to inform the development of a framework for CRIA which should include a number of dimensions for children's rights. An initial selection of these relevant dimensions is suggested below. However these should be further considered in the process of developing a framework for CRIA, which goes beyond the scope of this concept note.

- **An institutional dimension.** This would look at what impacts the proposed policy, programme, decision etc will have on institutional structures/services that are key to children's rights. This could include on looking at their human resource capacity, delivery mechanisms, governance and accountability mechanisms, resource allocation (e.g. are resources allocated and made available to the most marginalised groups), budgets, and so, as well as their attitudes and beliefs with respect to understanding the situation of children and issues that affect them.
- **An access dimension.** This would look explicitly at whether the proposed policy, programme, decision etc would impede or facilitate access to services (health, education, protection, etc)
- **Impacts on General Measures of Implementation.** This would look at each of the General Measures (see Box 11 below) and ask whether these would be facilitated or impeded, recognising that there may be an overlap with the institutional assessment.

#### Box 11: The General Measures of Implementation

**General Measure of Implementation 1: The process of law reform.** States parties should review national legislation and ensure that national laws are compatible with the rights set out in the UNCRC. Additionally, States are urged to review and withdraw any reservations made on Convention articles and to ratify other relevant international instruments such as the two Optional Protocols.

**General Measure of Implementation 2: Development of independent human rights institutions for children.** The establishment of independent human rights institutions for children should not substitute, but rather be complementary to self-monitoring governmental institutions. These institutions should be geared towards promoting and safeguarding the rights of the child.

**General Measure of Implementation 3: Development of comprehensive strategies or agendas for children.** In order to promote and protect the rights of the child at all levels, state parties need to develop a comprehensive national strategy for children based on the UNCRC. The strategy must set realistic and achievable targets and must include adequate allocation of human, financial and organisational resources.

**General Measure of Implementation 4: Development of permanent governmental coordination mechanisms.** Full implementation of the UNCRC requires effective coordination both horizontally between government agencies and departments and vertically across different government levels, from local, regional to central, but also between the government and the private sector.

**General Measure of Implementation 5: Systematic monitoring – data collection and evaluation.** Two kinds of monitoring can be distinguished: the first is the monitoring of violations, the second is monitoring the implementation of the Convention. The Committee encourages states to use different methods for the collection of qualitative and quantitative data. These can include interviewing children directly and asking them for their opinions and views. However, it is important that data are not only collected, but also properly evaluated and the outcome used to influence policy.

**General Measure of Implementation 6: Allocation of resources for children (budget analysis, etc).** States are expected to allocate a budget for children 'to the maximum extent of their available resources'. Steps should be taken at all levels of government to ensure that economic and social planning and decision-making and budgetary decisions are made with the best interest of children as a primary considerations and that children are protected from the adverse effects of economic policies or financial downturns.

**General Measure of Implementation 7: Education, training and awareness-raising on the UNCRC.** Awareness raising on the UNCRC should be geared towards adults and children alike. The text of the Convention should be widely available and be presented in understandable language, e.g. by publishing a child-friendly version of the UNCRC. Additionally, state reports submitted to the Committee should be easily

and widely accessible by the general public. As part of the process of creating awareness, children need to learn about their rights and the UNCRC. This should be incorporated into the school curriculum at all stages. Furthermore, education should extend to training and capacity building of personnel working with children. These include child psychologists, teachers, health and social workers, the police and others.

**General Measure of Implementation 8: Collaboration in the process of implementation with civil society including children.** In General Comment 5 the Committee says that implementation is an obligation for state parties, but needs to engage all sectors of society, including children themselves. NGOs, the media, civil society and in particular children and young people should participate and be directly involved in the process.

Source: [http://www.crin.org/resources/treaties/CRC\\_GMI.asp](http://www.crin.org/resources/treaties/CRC_GMI.asp).

Questions are often asked as to how the principles and different dimensions outlined above can be applied in practice in development programmes. Box 14 provides an example of how Save the Children UK has used a rights-based approach which captures many of these dimensions along with UNCRC-inspired principles as a basis for its own organisational impact monitoring.

#### **Box 12: Save the Children UK dimensions of change**

The following key 'dimensions of change' were developed by Save the Children UK to assess impact of its programmes and policies across the globe. They are based on two key principles:

- Impacts, i.e. changes, can happen at different levels, i.e. individual lives, policies and practices, at community level and can affect processes (such as participation and rights claiming). The 5 dimensions were designed to cover the main areas and levels of impact on children, and to identify the connections between them.
- The 5 dimensions of change are explicitly based on the UNCRC and on its key principles of accountability, participation and equality.

##### **Changes in the lives of children and young people**

Which **rights** are being better fulfilled? Which rights are no longer being violated?

##### **Changes in policies and practice affecting children and young people's rights**

Duty-bearers are more **accountable** for the fulfilment, protection and respect of children's and young people's rights. Policies are developed and implemented and the attitudes of duty-bearers take into account the best interests and rights of the child.

##### **Changes in children's and young people's participation and active citizenship**

Children and young people **claim their rights** or are supported to do so. Spaces and opportunities exist which allow participation and the exercise of citizenship by children's groups and others working for the fulfilment of child rights.

##### **Changes in equity and non-discrimination of children and young people**

In policies, programmes, services and communities, are the most marginalised children reached? Disaggregated data are required to capture changes for different groups of children.

##### **Changes in civil society's and communities' capacity to support children's rights**

Do networks, coalitions and/or movements add value to the work of their participants? Do they mobilise greater forces for change in children and young people's lives?

Source: Starling et al. (2004).

#### **4.4.3 Clusters of rights for CRIA**

A further question is how to deal with the fact that there are 54 Articles (and two Optional Protocols) in the UNCRC; it is unlikely that each of these could be measured individually. There are at least two options available. One would be to ask children to define which rights are most important in the given circumstance. For example, when assigning custody and determining access of children in divorce/separation cases, the Canadian law courts asked both judges and children which articles need to be taken into consideration when making judgements. In particular, not only did they ask children which articles needed to be considered by the judge, but also how they should be considered (Collins and Pearson, 2002).

An alternative or complimentary approach would be to group rights into clusters. There are various alternative ways this could be done. For example, rights could be grouped into the clusters laid out in the UNCRC:<sup>13</sup>

- The **guiding principles** of the Convention include non-discrimination; adherence to the best interests of the child; the right to life, survival and development; and the right to participate. They represent the underlying requirements for any and all rights to be realised.
- **Survival and development** rights. They include rights to adequate food, shelter, clean water, formal education, primary health care, leisure and recreation, cultural activities and information about their rights. These rights require not only the existence of the means to fulfil the rights but also access to them.
- **Protection rights**. These rights include protection from all forms of child abuse, neglect, exploitation and cruelty, including the right to special protection in times of war and protection from abuse in the criminal justice system.
- **Participation rights**. Participation rights include the right to express opinions and be heard, the right to information and freedom of association.

Alternatively, the Committee on the Rights of the Child grouped individual articles into interconnected thematic clusters in order to simplify the reporting process for countries reporting to the Committee. The reporting Clusters from the CRC monitoring guidelines are:

- General measures of implementation;
- Civil rights and freedoms;
- Family environment and alternative care;
- Basic health and welfare;
- Education, leisure and cultural activities;
- Special protection measures.

#### 4.4.4 A Common Framework

The general principles and different dimensions (along with consideration of asking children which rights are relevant and/or grouping rights into more manageable clusters) will provide the common framework for all CRIA components, which should be designed, developed and tested with the specific aim of being integrated into existing impact assessments, processes and practice. Below, we propose an initial selection of the CRIA Tool components, based on the following criteria:

- Opportunities to mainstream CRIA into existing well-established ealAs (e.g. World Bank PSIA, EIA and RIA, see Box 1);
- Building on other modules of the Child Rights Toolkit, which could integrate a CRIA dimension (e.g. PRS and budget module);
- Providing basic guidance to integrate CRIA questions into sector-specific impact assessments;
- Opportunities to directly involve and work with key actors within organisations and institutions in developing and testing CRIA;
- Avoiding replication of what already exists (e.g. CRIA for children commissions/ombudspersons that could build on existing experience from Scotland and Sweden).

## 4.5 Proposed components of the Embedded CRIA Tool

### 4.5.1 Mainstreaming CRIA into existing ealAs

**PSIA:** This will entail working closely with the World Bank team responsible for PSIA to develop a set of questions and processes to be integrated into ongoing PSIA to ensure that children's issues and child rights in particular are taken into account in the assessment. The reason why this is

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13 [http://www.unicef.org/crc/index\\_30177.html](http://www.unicef.org/crc/index_30177.html).

important is twofold: i) because, among other forms of ealAs, PSIAs are concerned specifically with social issues, which are often relevant for children's rights (e.g., education, health), but do not specifically address impact on children; and ii) because the Bank as an agency which does not focus on children in all its operations and this would be an opportunity to improve this. As with all other components suggested in this section, the availability and commitment of the agency to collaborate in this project is key if this is to succeed.

As part of the development of the CRIA/PSIA component, it will be important for a 'real life' pilot to take place to test the feasibility of integrating CRIA into ongoing PSIA, including whether CRIA should be integrated into all PSIA or only a selection. This component should provide quite specific guidance on the key questions, processes and tools for CRIA (including indicators if appropriate), specifically tailored to existing PSIA processes and methods. Children's participation should be a key contribution of CRIA to PSIA. The collaboration and commitment of the World Bank is crucial for this component.

The main stakeholders for this component would be the World Bank, which conducts PSIA, but also other donors interested in ex ante poverty assessments. Other relevant stakeholders would include NGOs that work with the Bank and other donors who campaign/advocate for a more central role of children issues in poverty reduction efforts.

**EIA:** These are often compulsory in many North American and European countries, and include impact on human wellbeing of different development and infrastructural interventions. However, they do not focus on children and they could benefit from a set of specific questions and tools focusing on impact on children. The main benefits in integrating a child rights component into environmental assessment would include the ability to: i) engage with specific government institutions at national level that could start to address children issues more systematically in their policy processes; and ii) to explore impact on children wellbeing of a specific set of policies which are normally confined to technical issues/dimensions, etc.

The main stakeholders for this component would be governments and other agencies proposing new legislation or policies and responsible for EIAs. CSOs could use the results of CRIA to hold duty-bearers more accountable to environmental policies and actions that could potentially affect children's rights. Businesses and potential private investors could also be interested in the CRIA results, particularly if they are committed to 'do no harm' policies or child-friendly codes of conduct.

**RIA:** Integrating a CRIA component into RIAs, such as those carried out by the EC prior to the introduction of a new policy/directive, could be a useful endeavour. However, the feasibility of this needs to be assessed on a case-by-case basis, since some regulatory impact assessments may not have the flexibility to integrate new components or cover different issues. For example, it would be desirable to explore with the EC the possibility of integrating a child rights component in the EC ealA, given the EC interest in strengthening their work on children and children's rights in particular.

**HRIA for business:** The main rationale for integrating CRIA into business human rights impact assessments is twofold. First, this would be an opportunity to engage directly with the business sector, which is not always focused on children's issues, to ensure that the impact of their actions on children is on their radar, particularly in relation to the development of codes of conduct or other policies aimed at regulating their actions. Second, this is a relatively well-established domain for HRIA (see Section 3) and this would be a unique opportunity to ensure that children's rights are also taken into account.

Integrating CRIA into HRIA for business will entail working closely with the different organisations which have been developing tools and implementing eaHRIA for business. This will provide an opportunity to test how CRIA can in practice be integrated into existing efforts to conduct broader human rights-based assessments, by providing a focus on children's rights. In this case too, the guidance should be specific in terms of questions, processes and tools, including indicators.

The main stakeholders for this component would be the private sector, including professional associations and lobby groups, as well as CSOs and campaigning organisations working towards rights-based codes of conduct and regulatory policies for the private sector (e.g. the Extractive Industry Transparency Initiative, Revenue Watch, etc).

#### 4.5.2 CRIA in Child Right Toolkit modules

##### *CRIA in PRS module*

This will entail working closely with the team responsible for developing the PRS Tool. The CRIA component could be an annex to the main Toolkit, providing guidance and methods to specifically assess the potential impact of PRSs on children's rights. One of the advantages of integrating this component into the PRS Tool is that it will allow a road test of the CRIA component in the field visits and pilots envisaged by the PRS module.

##### *CRIA in budget module*

This would be similar to the PRS approach, possibly developing an annex looking at methods for assessing impacts of budget processes on children.

#### 4.5.3 General guidance for CRIA in sectoral ealAs

These will be designed as generic, short guidance to assess impact on children of policies, laws or programmes in different sectors. In practice, the guidance will be composed of two main parts: a selection of key questions to be addressed by ealAs to cover the relevant child rights issues, and an overview on processes and methods to involve children in impact assessment to ensure that their voices are heard and taken into account by the overall assessment. Based on relevance and other criteria sectors to focus on could include juvenile justice; infrastructure; social protection; new aid modalities<sup>14</sup> (e.g. direct budget support, sector-wide approaches

#### 4.5.4 Child protection and 'do no harm'.

Although we suggest that an embedded approach for CRIA is the most useful at this stage, to ensure buy-in and commitment of key organisations and institutions in some circumstances a more holistic and universal approach to CRIA should not be ruled out. For instance, it could be argued that, in any organisation/institution, a CRIA focusing on child protection issues should be compulsory as a 'do no harm' requirement (as well as one of 'due diligence') for all new policies or programmes. This should be further explored in the next phase of the CRIA Tool development.

#### **Box 13: Assessing impacts on child protection**

Article 19 of the UNCRC (1989) states that '*State Parties shall protect the child from all forms of physical or mental violence, injury or abuse, neglect, maltreatment or exploitation, including sexual abuse.*'

In order to take issues of child protection and 'do no harm' into consideration in assessing the potential impacts on children's rights of a new policy, legislation or programme, it is important to examine whether children would be made increasingly vulnerable to any of the following key protection risks:

- Violence, exploitation, abuse and/or neglect
- Trafficking
- Migration
- Abandonment (children living without parental care)
- (Child) Labour
- Children in conflict with the law
- Conflict
- Lack of access to protection mechanisms (e.g. social workers, justice systems, etc)

In addition to assessing the direct impact on child protection, CRIA should also assess the extent to which laws, policies and programmes affect the protective environment for children that will help prevent and respond to violence, abuse and exploitation. In particular, the impact on these eight essential components (UNICEF, 2006) of a protective environment should be considered:

1. Strengthening **government commitment** and **capacity** to fulfil children's right to protection

<sup>14</sup> This is not strictly speaking a sector and it may not be possible or easy to develop generic guidance for it.

2. Promoting the establishment and **enforcement** of adequate **legislation**
3. Addressing harmful **attitudes, customs and practices**
4. Encouraging **open discussion** of child protection issues that includes media and civil society partners
5. Developing **children's life skills, knowledge and participation**
6. Building **capacity of families and communities**
7. Providing **essential services for prevention, recovery and reintegration**, including basic health, education and protection
8. Establishing and implementing ongoing and effective **monitoring, reporting and oversight**

## 4.7 Next Steps

The immediate next steps should focus on organising the work for the CRIA Tool. In particular, we recommend the following key steps:

- Appointment of a coordinator for CRIA, responsible for managing the various components and, if necessary, pulling together the main lessons from each at the end of the project/process. We would recommend that this coordinator be internal to UNICEF to ensure institutional commitment at different levels.
- Early consultation with the key actors/organisations involved (e.g. the World Bank, DIHR, Child Rights Toolkit teams, EC, etc). This will be key to gauge their interest and discuss specific ToRs for each component.
- Consider appointing a small and informal reference group which could provide guidance/support across all the different components and ensure some degree of coherence/consistency between them.
- Consider organising a consultation at mid-point (or towards the end) of the project with relevant stakeholders for the various components to gather the view of the wider community on the various components of the Tool and to discuss the way forward in terms of future implementation. The key message here is not to wait until the Tool is available off the shelf to consult with the wider community meant to see it.
- Secure commitment for eaCRIA within UNICEF, including at high/political level as well as by getting operational teams – such as the evaluation department and key country offices – on board.

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## Annex 1: Types of ex Ante Impact Assessments

Type of ealA	Impact of what	On what	Timing and type	Components	Approach
Poverty and Social Impact Analysis (PSIA)	National level policy reforms	The distributional impact on the welfare across society, with a particular focus on the poor	Need for a PSIA identified in collaboration between donor agency, government and other potential stakeholders.	Good practice on PSIA recommends: asking the right questions, identifying stakeholders, understanding transmission channels, assessing institutions, gathering data and information, contemplating enhancement and compensation measures, assessing risks, monitoring and evaluating impacts, and fostering policy debate and feeding back into policy.	Varies: from desk-based studies, carried out with secondary data, economic modelling, and limited consultation, to 'process-oriented PSIAs', which include have a stronger emphasis on stakeholder engagement, a wide range of poverty, social and institutional/political economy effects including primary and secondary data collection.
Regulatory Impact Assessment (RIA)	Public policy proposals	Social, economic, and environmental spheres (all proposals which may have an impact on business, charities, the voluntary and public sector)	In many OECD and EU countries they are required by law for a number of types of policy. Often involves a two-step process of preliminary impact assessment, followed by an extended assessment if needed.	After screening, there is usually an analysis of: the problem addressed by the proposal, the objective it pursues, the alternative options available to reach the objective, the likely impacts, and the respective advantages and disadvantages of the options.	Usually carried out in-house by public bodies, with a common set of basic questions, minimum analytical standards and a common reporting format. Stakeholder consultation and participation is included in the guidelines but is variable in practice.
Environmental Impact Assessment (EIA)	Large projects (e.g. infrastructure) carried out by public and private bodies	The environment, e.g. air quality, water resources, ecosystem, hazardous materials...	In many countries required by environmental regulations, to be carried out as early as possible, often before submission to planning authorities	Description of project; outline of alternatives and choice; aspects of the environment likely to be significantly effected (short- and long-term, permanent and temporary, positive and negative); measures to prevent, reduce or offset the adverse effects	Usually carried out by the organisation carrying out the project
Health Impact Assessment	Projects, programmes or policies	The health of the population, and the distribution of the effects within the population	Carried out by local, regional and national governments, health authorities, planning authorities, private	Screening, scoping, full-scale HIA, public engagement and dialogue, appraisal of the HIA report, establishment of a framework for action on	Includes: collection and analysis of appropriate secondary data from relevant authorities (e.g. national health statistics, environmental and demographic

			industry and development agencies.	compensation/mitigation measures, negotiation of resource allocations for safeguard measures, and monitoring of compliance.	data), interviewing key informants and stakeholder groups, direct field observations, review of relevant scientific and grey literature.
Gender Impact Assessment	Policies, programmes, budgets, services, etc	Assessment of policies (etc) to see how they will affect men and women differently	Often used as the main tool for gender mainstreaming, most successful when carried out at an early stage of the decision-making process. May be best to carry out on policies where gender is directly relevant, but it is often policies which are mistakenly perceived as gender neutral that are important.	What is the policy trying to achieve? Does it meet the different needs of women and men? Have previous policies raised gender considerations for this policy? Is there a need to consider mitigation? What action can be taken to reduce the impact or to create a more gender balanced policy?	Includes consultation with men and women as well as additional data collection. There are often problems with obtaining gender-disaggregated data, however.

## Annex 2 Frameworks for Human Rights and Child Rights Impact Assessment

Model	What is the framework? Key questions asked	What areas are being assessed?	How are they conducted? Key steps, methods and approaches	Who conducts the assessment? When should it be conducted?	Who might use it/purpose? What happens to the results?
Child Strategy Statement, Scottish Executive (2000) [7]	<ul style="list-style-type: none"> <li>• Are there direct implications for CYP?</li> <li>• Are there any implications for target to defeat child poverty in Scotland?</li> <li>• Is there any significant indirect effect on CYP?</li> <li>• What impact is there for the general welfare of CYP?</li> <li>• Will policy affect one group of CYP more than others?</li> <li>• Will there be competing interests?</li> <li>• Will it adversely affect other policy areas in work with CYP?</li> </ul>	Consider impact of all policies/ legislation on children prior to implementation	Two types of assessment – an initial 'screening' assessment and a full impact assessment. The latter uses a combination approach following classical impact assessment steps, based on expert analysis and sources of information and consultation with statutory, non-statutory, and especially with children to identify potential impacts. Findings of the assessment process should be clearly evidenced	When devising new policy When amending current policy	
Child Impact Assessments in theory and practice, UNICEF (2003) [5]	<ul style="list-style-type: none"> <li>• A description of how measure affects (or might affect) CYP</li> <li>• How proposed measure is affected by, or affects other current government activities</li> <li>• How the measure promotes or impedes the implementation of the CRC</li> <li>• Identification of controversial issues</li> <li>• Whether assessment identified gaps in information or gaps in expertise</li> <li>• effects</li> </ul>	<ul style="list-style-type: none"> <li>• Policy</li> <li>• Legislation</li> <li>• Budgetary decisions</li> <li>• Organisational and administrative changes</li> </ul>	<ul style="list-style-type: none"> <li>• A description of proposed measure</li> <li>• Answers to the key questions (see left hand column)</li> <li>• Guidelines on how the measure should be monitored</li> <li>• Proposed steps to ameliorate or solve anticipated adverse</li> <li>• CYP views on the measure</li> </ul>	<ul style="list-style-type: none"> <li>• When policy first considered</li> <li>• When budget is approved</li> <li>• When bills are drawn up</li> </ul> When evaluating the impact after the measure has been implemented	

	<ul style="list-style-type: none"> <li>• Proposal for alternative approaches or extending chosen approach</li> </ul>				
<p>A model for assessing <b>policy</b> compliance, Society for Children &amp; Youth of British Columbia (2001) [8]</p>	<ul style="list-style-type: none"> <li>• UNCRC</li> <li>• Particular focus is on the four General Principles: Articles 2, 3(1),6 and 12</li> <li>• Is there consideration on how CRC applies to policy to be developed</li> <li>• Are key organisations and individuals (CYP) involved in development process?</li> <li>• Have they developed guiding principles or goals that reflect the CRC?</li> <li>• Do they incorporate general principles and articles of the CRC?</li> <li>• Do they incorporate other relevant CRC articles into policy?</li> <li>• Have they put into place planning for the implementation and evaluation of the policy?</li> </ul>	<ul style="list-style-type: none"> <li>• Policy</li> <li>• Legislation</li> <li>• Practice</li> </ul>		<ul style="list-style-type: none"> <li>• As the scope and application of the policy is developed</li> <li>• As policy is being drafted</li> <li>• As consultation processes are being planned and undertaken</li> <li>• As the policy is being finalised</li> <li>• As implementation and evaluation plans are being developed</li> </ul>	
<p>A model for assessing <b>legislative</b> compliance, Society for Children &amp; youth of British Columbia (2001) [9]</p>	<p>UNCRC</p>	<ul style="list-style-type: none"> <li>• Policy</li> <li>• Legislation</li> <li>• Practice</li> </ul>	<ul style="list-style-type: none"> <li>• Identify the legislation</li> <li>• Interpret the legislation</li> <li>• Identify relevant CRC articles</li> <li>• Interpret CRC articles</li> <li>• Analyse the legislation</li> <li>• Assign compliance ratings</li> </ul>	<ul style="list-style-type: none"> <li>• As the scope and application of the legislation is developed</li> <li>• As legislation is being drafted</li> <li>• As consultation processes are being planned and undertaken</li> <li>• As the legislation is being finalised</li> </ul>	

				<ul style="list-style-type: none"> <li>As implementation and evaluation plans are being developed</li> </ul>	
<p>Sweden (from Child Impact Assessments: Swedish Experience of Child Impact Analyses as a tool for implementing the UNCRC, 2001) [10]</p>	<ul style="list-style-type: none"> <li>UNCRC</li> <li>Best interests of the child (Article 3) – this seems to be the main focus</li> <li>The child's right to be heard (Article 12)</li> <li>Questions to ask: <ul style="list-style-type: none"> <li>what impact will the proposal have on the child/children?</li> <li>how does the proposal relate to the provisions of the CRC?</li> <li>what particular problems or conflicts of interest may the proposal entail?</li> <li>how does the proposal affect, or how is it affected by, other factors?</li> <li>what allowance has been made in the proposal for the viewpoints of the child/children, and how have those viewpoints been obtained?</li> <li>what compensatory measures may be needed?</li> <li>what costs and benefits will the proposal entail from the viewpoint of society, individual persons to particular groups?</li> <li>other issues of relevance?</li> </ul> </li> </ul>	<p>All national government decisions affecting CYP: legislation, budget decisions, decisions about the physical environment</p>	<ul style="list-style-type: none"> <li>Chart – survey and plan: what information is to be gathered? Where? Is any research required?</li> <li>Describe – view the issue in context. Describe the existing rules. Ascertain the views of CYP</li> <li>Analyse - look at reasons for the proposal and the anticipated consequences; how it relates to the CRC; clarify conflicting interests; if best interests of the child have to be deferred to other interests, look at compensatory measures; look at financial consequences</li> <li>Test – undertake a holistic assessment of all factors in light of mapping, description and analysis.</li> <li>Evaluate – afterwards, evaluate the effects the decision actually had and whether/to what extent they agreed with the assessment</li> </ul>		
<p>Child Impact Statements 1997/98 (NCB &amp; UNICEF,</p>	<ul style="list-style-type: none"> <li>extent to which the Bill is likely to contribute to the achievement of any goals identified by the government</li> </ul>	<ul style="list-style-type: none"> <li>All Bills (23) from Westminster parliamentar</li> </ul>	<p>Child impact materials made available on the NCB website (<a href="http://www.ncb.org.uk">http://www.ncb.org.uk</a>)</p>	<p>NCB As early as possible in policy/ legislative development</p>	<p>Findings shared with parliamentarians of all parties who</p>

<p>on behalf of APPG for Children) [11]</p>	<p>in relation to children</p> <ul style="list-style-type: none"> <li>• extent to which the Bill was likely to promote or inhibit the implementation of any relevant international treaties or standards applying to the UK (such as the CRC)</li> </ul>	<p>y session 1997/98, except for Finance Bill</p> <ul style="list-style-type: none"> <li>• Hopes that they will be used in future for the development of policy from its earliest stage, any parliamentary activity, follow up monitoring and evaluation</li> </ul>			<p>have expressed an interest in children's issues. Also, target audiences who are most likely to be able to influence or change the legislation(e.g. the Joint Committee on Human Rights, the relevant policy leads and Bill Team members in the civil service, Children's Commissioner staff and the most appropriate government minister. NCB also encourages other children and youth lobbyists to make use of the child impact materials and, by doing so, contribute to suggestions for specific amendments to the legislation. (2)</p>
<p><b>A "Children's Government" in England and Child Impact</b></p>	<ul style="list-style-type: none"> <li>• UN Convention on the Rights of the Child</li> <li>• European Convention on</li> </ul>	<ul style="list-style-type: none"> <li>• Bills and draft Bills</li> <li>• Green or</li> </ul>	<ul style="list-style-type: none"> <li>• Clause by clause analysis – analysis of Bill as it relates to existing provisions, comparing it with international and</li> </ul>		

<p><b>Assessment (2007)</b>  <b>Author: Lisa Payne</b>  <b>[2]</b></p>	<p>Human Rights, as incorporated into domestic law by the Human Rights Act 1998</p> <ul style="list-style-type: none"> <li>• the five outcomes for CYP established by Children Act 2004 <ul style="list-style-type: none"> <li>○ physical and mental health and emotional well-being</li> <li>○ protection from harm and neglect</li> <li>○ education, training and recreation</li> <li>○ contribution made by children to society</li> <li>○ social and economic well-being</li> </ul> </li> </ul>	<p>White papers</p> <ul style="list-style-type: none"> <li>• Budget</li> </ul>	<p>national law and likely effect on CYP</p> <ul style="list-style-type: none"> <li>• In some cases, if specific concerns are raised, then the Children's Legal Centre is asked to draft a more substantive scrutiny to investigate potential human rights issues – comparing provisions to other relevant legislation and to policy from other government departments</li> <li>• Stakeholder seminar – inviting academics, practitioners and government officials to seminar to discuss proposals</li> <li>• Recommendations – formulate suggestions for improvements to secondary legislation and guidance</li> <li>• Presentation of the impact assessment in the form of parliamentary briefing.</li> </ul>		
<p>Flemish Parliament (Act of Flemish Parliament, 15 July 1997) [12]</p>	<ul style="list-style-type: none"> <li>• UNCRC: extent to which it has been taken into account</li> <li>• the application of the four basic principles (Articles 2, 3, 6 and 12)</li> </ul>	<p>All proposed laws affecting CYP</p>	<ul style="list-style-type: none"> <li>• Impact of proposed decision on CYP</li> <li>• Whether the proposal contributes to the observance of the CRC</li> <li>• Alternatives to proposed decisions, including a description of the measures to be taken to remedy, avoid or limit significant damaging effects on CYP</li> <li>• List of difficulties encountered in the collection of the required information</li> </ul>	<p>When draft law is submitted to Parliament</p>	

<p>Child Impact Assessments (Maire McCormack, SCCYP, March 2005) [7]</p>	<ul style="list-style-type: none"> <li>• UNCRC</li> <li>• Aim of policy proposal</li> <li>• Who has taken a stand for/against it/ expressed concerns?</li> <li>• What is the timescale for response/action?</li> <li>• Have the views of CYP been ascertained?</li> <li>• How was this done and with whom?</li> <li>• Does the policy reflect this?</li> <li>• Effects of the proposal unique to CYP as opposed to rest of the population?</li> <li>• Is a CRC analysis available? If so, is it adequate? If not, is one required?</li> <li>• Should the current CRC analysis be progressed?</li> <li>• To what extent does the proposal contribute to any goals identified by the Scottish Executive in relation to CYP?</li> <li>• How should measure be monitored?</li> <li>• Is there a need to set up a working group to take forward proposal/alternative proposal?</li> <li>• Is there a need to ascertain the views of CYP?</li> </ul>	<ul style="list-style-type: none"> <li>• Policy</li> <li>• Legislation</li> <li>• Changes in administrative services</li> </ul>			
<p>Building a Child Impact Assessment Tool for the City of</p>		<ul style="list-style-type: none"> <li>• programmes</li> <li>• policies</li> <li>• initiatives in order to</li> </ul>	<p>1) Programme Selection.</p> <p>2) Template (containing several questions regarding rights of</p>	<p>Programme staff</p>	

<p>Edmonton, Canada (2005) Author: Bob Yates [13]</p>		<p>transform the City of Edmonton into a child friendly city</p>	<p>children and adolescents ) application.  3) Improvements identified.  4) Decision points.  5) Programmes enhanced</p>		
<p>Matching Practice with Principles. Human Rights Impact Assessment: EU Opportunities (2002) Authors: Marike Radstaake and Daan Bronkhorst [14]</p>		<p>EU policies</p>	<p>Tailored checklists are needed for different sectors, and manuals and trainings. <u>Step 1:</u> Assessment of the actual human rights situation. <u>Step 2:</u> Political analysis. <u>Step 3:</u> Selection of the essential questions and outline of policy options. <u>Step 4:</u> Political decision making on policy measures. This step will be always taken by the political decision-makers. <u>Step 5:</u> Implementation of policy actions. <u>Step 6:</u> Monitoring. <u>Step 7:</u> Evaluation</p>		<p>The European Union</p>
<p>UNICEF in Bosnia Herzegovina [6]</p>	<p>No specific rights focus for the work; instead expressed the potential impact as an impact on children's living conditions.</p>	<p>Impact of electricity price increase on children. Service providers and the impact of projected price increases on their ability to continue to provide services to children.</p>	<p>The team used MICS, other data gathered especially for the CRIA through household surveys and data collected using qualitative research to establish baseline conditions. The surveys and qualitative research (including focus groups with children) were at the same time used to gather information on projected impacts.</p>	<p>Project team</p>	

<p>Conflict Sensitive Business Practice (CSBP) [1]</p>			<p>A step-wise format. Developed as a fixed process, companies adapt and further develop the core concept through their own practices. Includes an overview of relevant regulation, a screening tool for early identification of conflict risk, a macro- and project-level conflict risk impact assessment and special guidance on several issues. Uses qualitative indicators and can be the basis to develop quantitative indicators. Key conflict sources are explained and relevant options and alternatives are given. Reference to existing benchmarks which can serve as impact and compliance measurement for companies. The Guide describes the process to promote stakeholder engagement, (local and national), shared decision-making, good communication, and participatory analysis.</p>	<p>Use early in the planning phase to identify key conflict issues at the pre-investment phase. The total CSBP is ongoing. Through a preliminary review it is possible to step in later in a project. Besides external experts, company staff should always be involved throughout the process (field-managers, staff in political risk, security, external relations and social performance departments. It is advised to select a team with mixed skills, including conflict analysis expertise and knowledge of the local culture.</p>	<p>Only for extractive industries in setting with potential conflict. Not easy replicable in other contexts. Helps extractive companies operating in conflict zones to improve their impact on host countries, understand and minimise conflict risk, and actively contribute to peace and economic and social development. Ongoing understanding of the project impact, management and mitigation strategies, transparent and mutually trusting relationships with the stakeholders.</p>
<p>Guide to Human Rights Impact Assessment and Management</p>	<p>Bring HRIA into core business planning and management processes.</p>		<p>An eight-step process to measure potential human rights challenges for business. Collates information,</p>	<p>Developed for the planning phase or when major changes in the operations are</p>	<p>The tool is very suitable for large-scale projects or large companies.</p>

[1]			<p>consultation, opinion and expertise to inform business judgments and management decisions. Participatory approach with consultation and stakeholder engagement, to identify and address issues of concern for workers and local communities.</p> <p>Methodology to manage and develop mitigative actions. Addresses both external and internal impacts for the business. Highlights key human rights principles and issues for business sectors. The tool fits the process and procedure stages in the management system and includes monitoring and reporting.</p>	<p>planned. Can also be used in operational projects. Company managers (often non-experts). External sources may be required for delivery of certain steps, for example, step 3: understanding the local business culture, and step 4: stakeholder engagement</p>	<p>Assists companies in identifying the human rights issues associated with their business operations. Aims to bring HRIA into core business planning and management processes. Findings of assessment and recommendations presented to management. Implements a Human Rights management process. Monitors, evaluates and reports on the human rights experience of the project in operation.</p>
Human Rights Compliance Assessment [1]	Based on the Universal Declaration of Human Rights, covenants, ILO conventions and 80 other human rights Conventions.	Overview of gaps in company policies, procedure and performance. Identifies (non) compliance with	A diagnostic self-assessment tool Steps: 1400 indicators (mostly qualitative) and 350 questions. The shorter version, the Quick Check, contains 28 questions. The assessment can focus on a specific human right, a certain topic or department. Direct and	Designed for projects that are in their operational phase, the assessments can start at every stage of a project or business activity. Through the use of the CRA and the HRCA the potential	The tool is used at a corporate, country and project level. Makes HRIA process more practical by clarifying what is expected from

		international human rights laws and standards. Compliance assessed on policy, procedural and performance level.	indirect human rights indicators in employee rights, societal rights and political rights. Verification of the company information with stakeholders: Trade unions, NGOs, workers and community representatives or organisations. Scope includes the workplace, the community and in the supply chain. The focus is on past, present and future impact and compliance. Takes each right, defines the responsibility of the company and defines a baseline for compliance. Risk assessment, compliance assessment against the international law framework. Impact assessment on broad scale of human rights issues, including community impact. Comprehensive tool needs adapting to company to ensure covering all necessary issues and time-efficiency.	impact of activities in a (new) country can be evaluated to adapt policies and procedures to the legal framework. Is designed to fit into existing management systems and can be applied at each stage of the management system. Country managers, functional area managers, corporate citizenship managers, investment officers and auditors (single person or task team with representatives from different departments - e.g. legal, HR, procurement). Can be started by company or other stakeholders such as the community, civil society organisations, trade unions or academics.	business. Provides ingredients for carrying out the steps of an HRIA. Quantifies overall performance to track development on regular basis. Guides future policies, procedures and performance through recommendations and best practices.
Community Human Rights Impact Assessment [1]	The tool covers the rights contained within the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Attempts to measure the gaps	Human rights related to foreign investment – risk and impact – on local communities.	Developed as a CD-ROM, a comprehensive list of questions is available for the team to select according to the specificity of their case. A step-by-step process organised into six main phases. Information, references and examples of	The tool is used at project level. Planning and operational phases. Used by local organisations working directly with the affected communities.	Tool for civil society organisations working directly with local communities. Process helps to take stock of the

	between the human rights in principle (as ratified by governments) and the rights in practice.		research techniques, are provided throughout the steps. The questions provided in the guide are presented by right and divided into three categories: Government and the national human rights context, company and community, and human rights. Project-specific questions are encouraged. While the indicators are mostly qualitative, quantitative indicators are also used. The community HRIA is specialised in participation of the community and other stakeholders. The tool combines use of expert knowledge of human rights with a participatory approach of consultation and stakeholder engagement. Gives special attention to the obligations of the state. The tool fits the stages of process and procedures, communication, training, monitoring and reporting.	Can also be used by organisations outside the communities that wish to accompany local groups in this process. A mixed local and international team is advised to stimulate mutual learning and to combine capacity building into the assessment. Aims at participation of affected communities in the decisions that affect them.	positive and negative impacts of foreign investment projects on human rights. Proposes appropriate corrective measures. Final report written by community and its representatives. Monitoring and ongoing evaluation.
Maplecroft Human Rights Risk Tools [1]	The tool is aligned with the framework of the Universal Declaration of Human Rights, its covenants and ILO conventions. Human rights are addressed in four categories: Human Security, Labour Rights & Protection, Civil Liberties & Freedom, and Redress.	Human rights (human security, labour standards and protection, and civil and political risk), sectors, location and impacts on gender; related risks at	Enables traffic light approach to risk analysis as well as matrix approach that highlights the different risk exposures applicable to each user entity. Uses maps, quantitative indices, statistical techniques and graphs to illustrate risk exposure. Combines country risk across 30 indicators for 196 countries with company human rights risk management proficiency assessments, to target areas for	Relevant at all stages of a project, especially the planning and closure phases. Both group and business unit/country functions. The country analysis is a service offered by Maplecroft.	Can be used at a project and corporate level. The company risk management proficiency scores the human rights policy, procedures, communication, monitoring and audit and assurance

		both country and sub-country level. Helps to understand the interrelationships between human rights and other issues.	action and monitoring. 30 different human rights risk indicators (mainly quantitative) across the categories of human security, labour standards and protection, and civil and political risk. Includes access to remedies. Country risk analysis includes stakeholder viewpoints from international organisations, non-governmental organisations, businesses, trade unions, peers and other groups. Use as risk assessment and benchmarking tools. Designed to fit into existing management systems.		programmes. Recommendations for the prioritisation of mitigation measures. Monitors suggestions to address reputational risk.
<i>Handbook in Human Rights Assessment: State Obligations, Awareness &amp; Empowerment; NORAD, 2001 [21]</i>	Key questions: <ol style="list-style-type: none"> <li>1. What is the program's assumed/actual impact on equality and non-discrimination?</li> <li>2. Has the population directly affected been informed about the program?</li> <li>3. Does the program respect/has the program respected everyone's right to seek and impart information relevant to the implementation?</li> <li>4. Does the program respect/has the program respected everyone's right to express views freely in the preparation and implementation of the program?</li> <li>5. Does the program</li> </ol>	Addresses whether the program: <ul style="list-style-type: none"> <li>• is consistent with the human rights obligations of the partner country;</li> <li>• strengthens human rights awareness within the target population and other people affected;</li> </ul>	It is not a manual on how to conduct a full-scale human rights impact analysis, rather it is a guide that will assist the user to identify the need for such analysis. People being involved in the process is critical. The assessment tool is composed of two forms. The first analyzes the current state obligations. The second form asks the assessor to respond to ten questions evaluating the program's effect on human rights (see left hand column). The handbook provides a scoring system and explains how to answer each of the questions. In particular, the questionnaire should be completed with a view to how	NORAD program officers, embassy personnel and external advisers	integrating human rights into all parts of development co-operation for poverty alleviation

	<p>promote/has the program promoted participation in decision making of groups affected?</p> <p>6. Does the program uphold/has the program upheld the right to organize?</p> <p>7. Does the program respect/has the program respected the right to just and favorable conditions of work?</p> <p>8. Does the program affect/has the program affected the fulfillment of the right to an adequate standard of living for target groups and other people affected, including access to adequate food and continuous improvement of living conditions?</p> <p>9. Does the program affect/has the program affected the opportunity of people for self provision in terms of income generation activities?</p> <p>10. Does the program address the right to compensation for those negatively affected?</p>	<p>and</p> <ul style="list-style-type: none"> <li>empowers target groups and other people affected to enjoy their human rights</li> </ul>	<p>the program might empower poor sections of the community.</p>		
<p><i>Health Rights of Women Assessment Instrument</i>, The Humanist Committee on</p>		<p>Analyze policies that are intended to affect health rights and also policies that do</p>	<p>Six-step methodology, including for each step the purpose, the key questions, detailed questions with explanations, where to find the information, and a final question to help the</p>	<p>NGOs</p>	<p>NGOs (specifically health, women's and human rights organisations) can produce</p>

<p>Human Rights (HOM), 2006</p>		<p>not intend to affect health rights but may have an impact on health rights</p>	<p>organization sum up the conclusions for that step. The six steps are:</p> <ol style="list-style-type: none"> <li>1. Identify the policy</li> <li>2. Identify the government commitments</li> <li>3. Describe the capacity for implementation</li> <li>4. Assess the impact on health rights</li> <li>5. Draw links between steps 2 and 4</li> <li>6. Generate recommendations and the action plan</li> </ol>		<p>arguments to lobby governments, World Bank, or Commission on the Status of Women for policies to improve women's health rights. Can also form the basis for a shadow report to CDESCR or the Committee on the Elimination of Discrimination Against Women.</p>
<p>Impact Assessments, Poverty and Human Rights: A Case Study Using The Right to the Highest Attainable Standard of Health, Professor Paul Hunt and Gillian MacNaughton, UNESCO, 2006 [20]</p>	<p>Universal Declaration of Human Rights, Article 12 of the ICESCR. Also uses the four inter-related and essential elements of the right to health: (1) Availability, (2) Accessibility, (3) Acceptability, and (4) Quality, and, six other concepts are crucial to the right to health: (1) progressive realization; (2) a core obligation of a State; (3) non-discrimination and equality; (4) participation; (5) access to health information; (6)access to effective mechanisms of accountability</p>	<p>Aid governments in complying with their legal obligations to progressively realize the right to health</p>	<p>The way it is conducted should adhere to 7 general principles (see list in left hand column plus interdependence of rights). Proposes a methodology for incorporating human rights into existing impact assessment methodologies rather than doing it as a stand alone assessment. This consists of six steps: Step 1: Preliminary Check (asking :</p> <ul style="list-style-type: none"> <li>• What is the policy under consideration?</li> <li>• What are the key international human rights treaty obligations?</li> <li>• What are the key national human rights laws?</li> <li>• Does this policy have any</li> </ul>	<p>governments</p>	

			<p>potential right-to-health impacts?)</p> <p>Step 2: Assessment Plan (for the assessment, and also informing stakeholders of this plan)</p> <p>Step 3: Information Collection</p> <p>Step 4: Rights Analysis</p> <p>Step 5: Debate Options</p> <p>Step 6: Decision and Evaluation</p>	
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## Annexe 3: What needs to be in place to make eaCRIA usable, useful and used?

### *Building an external body of support*

For eaCRIA to be taken seriously, effort needs to be focused on getting key players on board to build a body of support for the concept and use. This needs to be done broadly within relevant sectors, such as aid, government or business, as well as internally within institutions or organisations that carry out eaCRIA or would be expected to use the results. Without sufficient buy-in from relevant parties, there is no use in developing tools or methods, since they are unlikely to get used. Various factors need to be taken into consideration in order to achieve buy-in:

- **Increasing awareness** of what eaCRIA is and the potential benefits it could bring, by using arguments outlined in Section 4.1.
- **Finding champions** who have the authority and mandate to influence others.
- **Building political pressure** and will to do it.
- **Understanding external drivers** (e.g. UNICEF works with the World Bank to incorporate child rights into poverty reduction strategies (PRSs), or donors ask for it of governments, etc).
- **Getting civil society on board**, so that they can put pressure on governments and the private sector to carry out such assessments, as well as using the results themselves.
- **Finding key points of leverage**, such as integrating it into the work of those involved in similar exercises, such as evaluation or planning units, or into existing forms of ealA, such as PRS, PSIA or non-child-focused HRIA.
- **Developing tools**, methods, etc and carrying out eaCRIA in a **participatory manner**.

Even if the external political will and buy-in are there, there are still various factors within any organisation or institution that will influence whether eaCRIA are conducted, are conducted well and have their results used. These include getting buy-in and support internally, having good processes in place and having sufficient resources. Each of these factors is explained in more detail below:

### *Getting people on board internally*

**Champions:** Having a 'champion' at senior management level who has the authority and mandate to make things happen is critical. This person also needs to be someone well respected by others. Champions strategically positioned across an organisation (e.g. in different departments) are also important to build further buy-in across an organisation.

**Senior management buy-in:** This is required to ensure uptake and enforcement as well as adequate resource allocation. They need to be 'kept in the loop' throughout the process and their input and feedback continually sought to keep eaCRIA on their agenda

**Management:** Managers need to know how to turn an eaCRIA from something that is theoretical into something that is practical, and need to act on (or be made to act on) the results.

**Implementers:** People carrying out the assessment need to have a clearly defined and broad-based mandate, based on universal human rights standards; the authority and remit to carry out the work effectively and to enforce recommendations; sufficient autonomy that they can be 'impartial' in their recommendations; time, money and the necessary skills (see below); and a membership that broadly reflects the society.

#### *Good process*

**Fitting into existing processes:** Understand how eaCRIA might fit in with existing processes (e.g. planning, M&E, auditing, reporting processes, risk management, compliance procedures, child protection policies, regulations, other forms of ealA, etc) – can it be 'mainstreamed'? Also, think about where it would 'fit' within the organisation – who would do it, which department, how would it link with other departments, etc? Thinking this through can also help make sure that the overall process is manageable.

**Participation:** Relevant people – including children likely to be affected by the decision and decision makers – need to be involved in the process, deciding what will be assessed, how and why. Their views should be actively sought as part of the assessment. Where possible, they should be part of the team that conducts the assessment and should be party to developing recommendations. The results are much more likely to be acted on if children have been part of the process.

**Formal mechanisms for quality control** to ensure the results are valid and valuable. Note that this does not mean just aiming for analytical rigour, but should also include looking at the quality of participation (e.g. are a broad range of perspectives incorporated?) and at communication efforts (Hayes, 2005). One issue of quality control that is quite unique to looking at issues affecting children is ensuring data is 'child relevant'. For example, there is a grave lack of child-centred statistics<sup>15</sup> so relevant data might not exist. Sometimes, you can create them from existing data but sometimes not. If new data are to be collected, these must be child centred and sufficiently disaggregated to determine differential impacts on different groups of children.

**Accountability mechanisms:** Clarity on the roles and responsibilities of those involved is essential and mechanisms for holding people to account, such as rewarding those who carry out their role well (e.g. taking forward the recommendations of the assessment) or punishing those who do not (e.g. missing deadlines), need to be in place

**Communications strategy:** A key message from the literature on evidence-based policymaking is that communication is central (Jones, 2009b). The purpose, process and results of the assessment need to be explained to all those who will be affected by it (e.g. from senior management through to frontline staff and other relevant stakeholders) before any actions are taken.

**Timeliness:** Results should be available when they are needed, for example when a project plan is about to be developed, a budget is about to be decided or a reading of a parliamentary bill is due.

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<sup>15</sup> This is data that look at things from the child's perspective. For example, an oft-quoted statistic in the Italian media is that 49% of Italian women have only one child. This statistic looks at things from the adult point of view – the temptation is to conclude that 49% of Italian children are 'only children' (have no siblings). But, a child-centred statistic would ask how many siblings do children have – from this point of view, you find that approx 19% of children are 'only children' (have no siblings) (Ennew, 1993).

**Guidance materials:** Guidance covering the theory and practice (e.g. process, methodologies, tools that can be used) of how to conduct an eaCRIA should be targeted at specific audiences and kept simple and flexible. People might need to be trained in how to use them, or accompanied through the process.

**Piloting** might be required to ascertain whether and how the eaCRIA methodology and process works and how to improve it. It can be used to develop 'good practice' models. The piloting process is also an opportunity to raise awareness of eaCRIA and to demonstrate its value to others. However, piloting should take place under similar conditions to those that would be experienced when trying to implement a larger eaCRIA. Otherwise, there is a risk that considerations such as resourcing, buy-in and coordination are not taken into account, when these are key factors determining whether or not the assessment is viable in practice.

**Accompaniment:** Having people who have already been through an eaCRIA accompany those implementing it can provide support and prevent mistakes, and is likely to increase overall effectiveness.

#### *Sufficient resources*

Making adequate resources available for the eaCRIA is an important factor shaping the effect an assessment will have. For example, devoting financial and human resources to dissemination and policy dialogue activities is almost a prerequisite for influence (Higgins, 2007). A variety of resources are required.

**Human resources:** This is key, yet often overlooked or underestimated. There must be sufficient numbers of people to carry out the assessment and to implement the findings. A wide variety of skills will also be required to carry out different functions, such as getting people on board and communicating findings (e.g. advocacy and communication skills), turning it from something theoretical to something practical, carrying out the assessment (participatory research methods, working with children on research, political analysis, sector expertise, child rights, facilitation skills, familiarity with the local context, culture and politics, etc) and putting recommendations into practice. Training might be required to build the necessary skills, but ideally people with relevant skills would be appointed or brought in for the relevant phase of the assessment.

**Time resources:** Give sufficient time to the necessary steps, bearing in mind that participatory processes can take longer. It should also be noted that this is not just individuals' time but also collective time, since people will need to work together on this.

**Financial resources:** Adequate financial resources need to be allocated not just for the assessment itself, but also for the dissemination of findings and for implementing recommendations.

Note that resources can be pooled or shared, such as using the skills base from one assessment to help in a different assessment (e.g. in a different department) or integrating an eaCRIA within another form of assessment.