



OPERATIONALISING CHILDREN'S RIGHTS PRINCIPLES: AN INDICATOR FRAMEWORK FOR POLICY ANALYSIS

(Operacionalizar los principios de los derechos del niño: un marco de indicadores para el análisis de políticas)

Aida Kišūnaitė

Department of Political and Juridical Science, Law and International Studies
University of Padova, Italy

Ly Hai Bui

Department of Political and Juridical Sciences, Law and International Studies
University of Padova, Italy

Abstract

Despite decades-old political commitments to mainstreaming children's rights in policy initiatives, there remains inadequacy of children's rights-based monitoring and evaluation instruments for this progress. As an effort to address this gap, the paper seeks to conceptualise the children's rights-based approach and to propose its application to policy analysis. Recognising children as rights holders and the state as the primary duty bearer, the core of the children's rights-based approach is at ensuring the enjoyment and realisation of children's rights through a number of principles. This paper's proposed assessment framework focuses on the state's legal structure, policy measures, and outcomes achieved in the realisation and enjoyment of children's rights and the evaluation of policy progress under child rights norms and principles. Accordingly, the children's rights-based policy analysis is designed to be based on two sets of indicators that reflect the state's policy commitment and child rights principles.

Keywords: children's rights, policy analysis, principles

Resumen

A pesar de los compromisos políticos de décadas de incorporar los derechos del niño en las iniciativas políticas, los instrumentos de seguimiento y evaluación basados en los derechos del niño siguen siendo inadecuados para este progreso. Como un esfuerzo por abordar esta brecha, el documento busca conceptualizar el enfoque basado en los derechos del niño y proponer su aplicación al análisis de políticas. Reconociendo a los niños como titulares de derechos y al Estado como el principal garante de deberes, el núcleo del enfoque basado en los derechos del niño es garantizar el disfrute y la realización de los derechos del niño a través de una serie de principios. El marco de evaluación propuesto en este documento se centra en la estructura legal del estado, las medidas de política y los resultados logrados en la realización y el disfrute de los derechos del niño y la evaluación del progreso de las políticas bajo las normas y principios de los derechos del niño. En consecuencia, el análisis de políticas basado en los derechos del

niño está diseñado para basarse en dos conjuntos de indicadores que reflejan el compromiso político del estado y los principios de los derechos del niño.

Palabras clave: derechos del niño, análisis de políticas, principios

1. INTRODUCTION

Although the UN Human Rights Council and the UN Committee on the Rights of the Child have continuously pressed ahead for states' efforts to mainstream children's rights at every level of their government, integrating a child-centred perspective into all legislation, policies, programmes and budgets (UN Committee on the Rights of the Child 2003; UN Human Rights Council 2017), vast disparities persist in states' practical implementation, not to mention that issues related to children's rights appear to remain a concern of marginal status for policy makers (Tobin 2011). Recent decades have witnessed the increasing adoption of international and regional treaties to protect children and empower them as rights-holders, especially the UN Convention on the Rights of the Child (CRC) and its Optional Protocols, resulting in the development of laws and policies in a number of countries. However, their implementation plans remain vague or limited. Specifically, they may lack verifiable objectives and fixed time-frames, are poorly resourced, and may be subject to weak coordination (Save the Children Sweden 2011). As a result, the effort to apply a children's rights-based approach to policy analysis is the key to mainstreaming children's rights in public policy. However, the number of comprehensive frameworks of children's rights-based approaches to policy analysis that have been built so far is limited and/or fragmented. Among the most recent attempts is the study by Byrne and Lundy (2019), which provides the six 'Ps' framework to better understand children's rights-based approaches to policy: the principles/provisions of the CRC; the process of children's rights impact assessment; the participation of children and young people; partnership, public budgeting. Further frameworks have been also previously developed but they were focused on a specific type of policies, such as national responses to migrants and refugees (Byrne 2018), or aimed to be used as guidelines for policy makers during their decision-making process, e.g. child rights-based approach to food marketing (UNICEF 2018) or evaluation tool for anti-violence initiatives, including policy programmes (Paré and Collins 2017). There are also rights-based frameworks specifically designed to address children's rights and children's well-being, for example a rights-based approach to children health (Cadge 2011), rights-based approach to monitoring children well-being (Kennan et al. 2011), rights-based programming for children in conflict-affected areas (Seitz 2012), policy imperatives for children's well-being (Kickbusch 2012). In addition to all that, a number of practical guidelines and toolkits with a focus on mainstreaming children's rights have been developed, such as the EU-UNICEF Child Rights Toolkit (UNICEF 2014) in which many child rights-integrated instruments are proposed to ensure that children's rights are given priority by policy makers throughout the political and decision-making agendas and processes.

Despite many efforts, a full and comprehensive framework for a children's rights-based approach to policy analysis is missing (Byrne and Lundy 2019) and this is exactly the gap that this paper aims to address. In fact, building on some existing frameworks (Save the Children 2007 and 2011; UNICEF 2009 and 2014; Kickbusch 2012; Gabel 2016), this work

aims to operationalise specific indicators in order to capture the extent to which children's rights principles are respected, protected and promoted in states' processes of implementing and realising children's rights. More precisely, the proposed framework can be applied to public policy and programmes to assess whether they have progressed, regressed, or had no effects on the realisation of children's rights, as well as to evaluate whether both the process and outcomes of public policy are aligned with children's rights-based principles. Therefore, this paper strives to provide researchers, policy advisors, and rights advocates with a framework to evaluate state's fulfilment of children's rights obligations, as well as assess whether related policy efforts comply with principles of children's rights.

2. FROM A HUMAN RIGHTS-BASED TO A CHILD RIGHTS-BASED APPROACH

Since the early 2000s, due to the increase and strengthening of the human rights discourse, there have been significant efforts made by UN agencies and international non-governmental organisations (NGOs) to integrate a human rights-based approach in their development and cooperation programmes, as well as at the level of their policy and advocacy work. In order to avoid ambiguity and inconsistency in the interpretation and operationalisation of human rights-based approaches among different UN bodies, these institutions convened a workshop in 2003 and agreed on a statement entitled 'The Human Rights-Based Approach to Development Cooperation – Towards a Common Understanding Among the United Nations Agencies' (UNDG Human Rights Working Group 2003). Five primary attributes of a human rights-based approach were therefore decided: firstly, the aim to further human rights fulfilments conforming to international human rights instruments; secondly, the conformity of all phases of development cooperation and programming in all sectors with human rights standards and principles; thirdly, identification of rights-holders and their entitlements and corresponding duty-bearers and their obligations; fourthly, the emphasis on the capacity development for 'duty-bearers' to meet their obligations and 'rights-holders' to claim their rights; and fifthly, equal attention paid to the goals and the process chosen to reach these goals (UNDG Human Rights Working Group 2003; UNICEF 2009; United Nations Research Institute for Social Development 2016). At the heart of a rights-based approach lies the creation of conditions for all individuals to engage in a participatory process that will ultimately expand their capabilities and freedoms, respecting their dignity and that of others. Common sources of rights that establish standards and principles of human rights-based approaches are those contained in international human rights treaties, however alternative sources of human rights standards can be logically embraced, for example, regional or domestic instruments, or even certain theories of rights that has not been transformed into law (Tobin 2011). Several attempts have been made by scholars, UN agencies, and NGOs to create a comprehensive list of human rights principles. Generally, the central principles of a human rights-based approach (HRBA) can be captured by the acronym P.A.N.E.L, meaning participation, accountability, non-discrimination, empowerment, and linkage to human rights (UNESCO and UNICEF 2007; Vandenhove 2013; Gabel 2016).

Merely by "virtue of their status as human beings" (Tobin 2011), children are considered, *prima facie*, the beneficiaries of all human rights as articulated under international human

rights treaties. And as such, a child rights-based approach might be regarded as a specific version of HRBA focused on children's human rights and based on the CRC (Seitz 2012). On one hand, a child rights-based approach can be seen as part of a more general human rights-based approach, referring to "a holistic analysis through the prism of children's rights" (Vandenhole 2013), thus a CRBA has its principles built by incorporating child-specific perspectives into principles of a HRBA. On the other hand, there are certain children-specific principles derived from the CRC to be respected in a CRBA due to the fact that children's capacities are evolving along their stages of development. Moreover, while the state is held as the main duty-bearer in a general HRBA, parents or children's guardians also have primary responsibilities and obligations in the realisation of children's rights in a CRBA (Seitz 2012). Other duty-bearers include communities and civil society, among others. Also of note is the possible lack of capacities within families, communities and governments to fulfil children's rights that may be caused by vulnerability and exclusion (UNICEF 2007). As a result, the failure to address the situations of the child's primary caregivers could lead to the failure of other actions aimed at helping children. Thus, the protection of child's primary caregivers is central to a children's rights-based approach. As Jonsson (2003) noted that when parents lack resources to provide for their children, it is often because their rights have been violated in the first place, therefore they could not be held accountable for not providing adequate support.

3. CHILDREN'S RIGHTS-BASED APPROACH TO POLICY ANALYSIS

A children's rights-based approach has no template but rather a range of different interpretations, conceptualisations and operationalisation. Even the name of the approach differs between different organisations and some of the terms are used interchangeably. These are, for example, 'child rights-based approach to programming' used by UNICEF; 'child rights-based programming approach (Seitz 2012); 'child primary approach' and 'child-centric approach' (Schröder-Bäck et al. 2019); 'child rights programming' (Save the Children 2007; Cadge 2011); 'child rights-sensitive' and 'child-friendly' (UNICEF 2014); 'child-sensitive' (UNICEF, 2015). In some cases, CRBA is even equated with a human rights-based approach to programming in relation to children (UNICEF, 2007) and 'a rights-based approach involving children' (Tobin, 2011). According to the definition of UNICEF (2018), a child rights-based approach is the one which identifies children as primary rights-holders and governments as corresponding primary duty-bearers. The approach also attempts to strengthen their corresponding capacities, so that children can claim their rights and governments can meet their obligations. Moreover, the approach tries to ensure that standards and principles derived from international human rights treaties are respected in all policies with potential impacts on children. The implementation of a CRBA can be informed by a common set of principles that are documented extensively in the literature, despite slight variations in emphasis and range of principles (Tobin 2011; Save the Children 2005; UNESCO and UNICEF 2007).

To apply a CRBA to policy formulation and implementation, it takes a conscious and deliberate effort to evaluate the alignment of policies and their processes align with the CRC (Byrne and Lundy 2019). As the first international legally binding treaty specifically dealing with child rights, the CRC represents the primary standard against which to

measure legislation and policies in relation to matters which affect children, playing the key role in defining principles of a CRBA (Byrne 2018). In addition, legal sources of the CRBA principles will also include other international human rights treaties, given that they have provisions dealing explicitly with children, namely the International Covenant on Civil and Political Rights (Articles 10(3), 14(4), 23(4) and 24); the International Covenant on Economic Social and Cultural Rights (Article 10); and the Convention on the Rights of Persons with Disabilities (Articles 3(h), 4(3), 7, 8(2)(b), 16(5), 18(2), 23, 24(2), 24(3) and 25(b)). Indeed, it is believed that a full and comprehensive framework for a children's rights-based approach to policy analysis is missing in the literature and very much needed to advance children's rights.

For better understanding how to apply a CRBA to policy analysis, it is useful to sketch what can be considered as children's rights-based public policy. Attempts made by existing scholarship to give definitions of public policy share certain descriptions, which define public policy as a set of decisions and actions made and taken by governments on the public's behalf, through making legislation, amending or introducing regulation, or by changing the way in which the government makes decisions or delivers services. These decisions and actions are oriented toward a goal, such as the solution of a problem or seeking for influence (Birkland 2015; Cowden 2016). Combining this definition of public policy and the attributes of CRBA as previously discussed may lead to defining certain qualities of children's rights-based public policy. They include a set of government policy programmes and initiatives that identify children as primary rights-holders and governments as corresponding primary duty-bearers, thus they aim for further realisation of children's rights and respect standards and principles as stipulated by the CRC as well as other international human rights treaties. In particular, resembling the HRBA policy analysis which views the public problem as violations of rights, the CRBA policy analysis approaches the issue from the aspect of child rights interruption. It is also noted that lying at the core of children's rights-based public policy are capacity-building programmes that attempt to strengthen corresponding capacities of children to claim their rights and governments to meet their obligations. Such attributes of children's rights-based public policy set the foundation for building the framework to apply a CRBA to policy analysis, whose objective is to assess whether the public policy and programmes have progressed, regressed, or had no effects on the realisation of children's rights, as well as to evaluate whether both the process and outcomes of public policy are aligned with children's rights-based principles.

Due to the close connection between HRBA and CRBA, as previously mentioned, it is important to stress that implicit in the children's rights-based policy analysis are three fundamental human rights principles: universal dignity, interdependence and indivisibility of rights, and cultural sensitivity. Specifically, in accordance with the principle of universal dignity, it is required that children are never to be seen simply as a means to an end but an end in themselves. For example, the provision of childhood services and educational opportunities for children is premised on the recognition that children have a right to those services, instead of justifying such investments or provisions by constructing children as social capital (Tobin 2011). Therefore, the analysis should define the problem that the public policy of interest aims to solve as violations of children's rights in accordance with international and regional children's rights laws and instruments, the national constitution, and national laws and regulations, recognizing children as primary rights-holders and states as responding duty-bearers (Gabel 2016). At the same time, the principle of

interdependence and indivisibility of rights, which highlights the equal status and the inclusion of economic, social and cultural rights alongside civil and political rights, should also be applied as a lens for looking at public policies and children's rights violations (UN Committee on the Rights of the Child 2003). Last but not least, as required by the principle of cultural sensitivity, the policy analysis is required to adapt children's rights norms to local meanings and existing cultural values and practices, corresponding to the right of children to enjoy their own culture, under Article 30 of the CRC. This principle is also mentioned in the preamble of the CRC that highlights the need to take due account of the importance of the traditions and cultural values for the protection and harmonious development of the child.

In terms of the purpose of measuring policy progress towards children's rights realisation, and develop our proposal for applying a CRBA to policy analysis, we suggest using a common methodological framework of indicators developed by the Office of the High Commissioner for Human Rights (OHCHR 2012) that identifies three types of indicators, i.e. structure, process, and outcome. Firstly, structural indicators define existing legal structures which may be reflected by the ratification and adoption of legal instruments as well as the creation of basic institutional mechanisms to protect and promote human rights. In children's rights-focused policy analysis, these indicators serve to examine whether related children's rights provisions are incorporated into the country's existing legal frameworks and how state's commitment to children's rights has been translated into an enforceable programme of action, identifying policy gaps. In summary, structural indicators are designed to examine:

- Ratification of international and regional human rights treaties relevant to the children's rights issues under review;
- The constitution or other forms of superior law, domestic laws, and policy programmes adopted by the state to address the children's rights issues under review;
- Registered and/or active NGOs involved in the promotion and protection of children's rights;
- Existence of national human rights institutions (NHRIs), national and/or local institutions with a specialised focus on children's rights.

Secondly, process indicators aim to assess whether there are sufficient implementation mechanisms in place to ensure the realisation of rights. Unlike structural indicators, process indicators continuously assess specific policy programmes and measures taken by the state to fulfil its obligations towards the realisation and enjoyment of children's rights. These process indicators may include:

- Budget allocations for the protection and promotion of children's rights;
- Children's rights complaints received and the proportion of those redressed;
- Incentive and awareness measures extended by the duty-bearer to address specific children's rights issues; and
- Functioning of specific institutions (ex. NHRIs, legal systems).

Finally, outcome indicators aim to identify what is the reality on the ground, capturing cumulating impact of the legal structure as well as measures taken over a period of time. Thus, the enjoyment of children's rights, as the overall goal of public policy as well as

specific programmes, are measured and evaluated. Capturing and measuring outcome indicators, due to their complexity, takes a greater deal of time as compared to structural and process indicators. Examples of outcome indicators are listed below but they may obviously vary depending on the sector of policy interventions.

- Trend data on the proportion of children as well as their parents/guardians enjoying benefits, services, or achieving milestones as a result of the policy intervention;
- Trend data on the proportion of children as well as their parents/guardians experiencing specific rights violations;
- Comparative statistics on outcomes for marginalised and majority groups; and
- Reports of systematic abuse or discrimination.

As noted by the OHCHR (2012), there is neither an easy nor a single way of reflecting cross-cutting human rights principles explicitly in the selection of indicators, and children's rights norms and standards are by no means the exception. However, with an ambition to capture the extent to which children's rights principles are respected, protected and promoted in states' processes of implementing and realising children's rights, this article aims to develop indicators for cross-cutting principles building on and compiling existing frameworks. These include the frameworks of child rights programming developed by Save the Children (2007), UNICEF (2009), Save the Children Sweden (2011), and UNICEF (2014), the work on policy imperatives for children's well-being (Kickbusch 2012), and Gabel's work on a rights-based social policy analysis (Gabel 2016). An analysis of practice across 12 countries by Lundy, Kilkelly, and Byrne (2013) identified a tendency in both law and policy to merely focus on the four 'general principles', 'best interest of a child', 'right to life, survival, and development', 'non-discrimination', and 'participation' as stipulated respectively by Articles 3.1, 6, 2 and 12 of the CRC. This tendency can be done at the expense of other provision of the CRC and has seemingly distorted understanding of the CRC as a whole (Hanson and Lundy 2017). Thus, in this framework, we propose to operationalise the ten children's rights-based commonly shared and extensively documented in the literature previously analysed. These ten principles will be divided into three main categories: general principles, child-specific principles and human rights-based principles with child-focused perspectives. To ensure that public policies are aligned with and reflect the realisation of children's rights, the article suggests to identify structural, process and outcome indicators for the whole list of ten children's rights-based principles (see Figure 1 below). More precisely, in the following section we will briefly describe each principle under the three main categories and we will present structural, process and outcome indicators for each of these principles. Far from being an exhaustive list of indicators, this is a first attempt to develop a CRBA to policy analysis that considers all children's rights-based principles and pushes for their operationalisation through structural, process and outcome indicators.

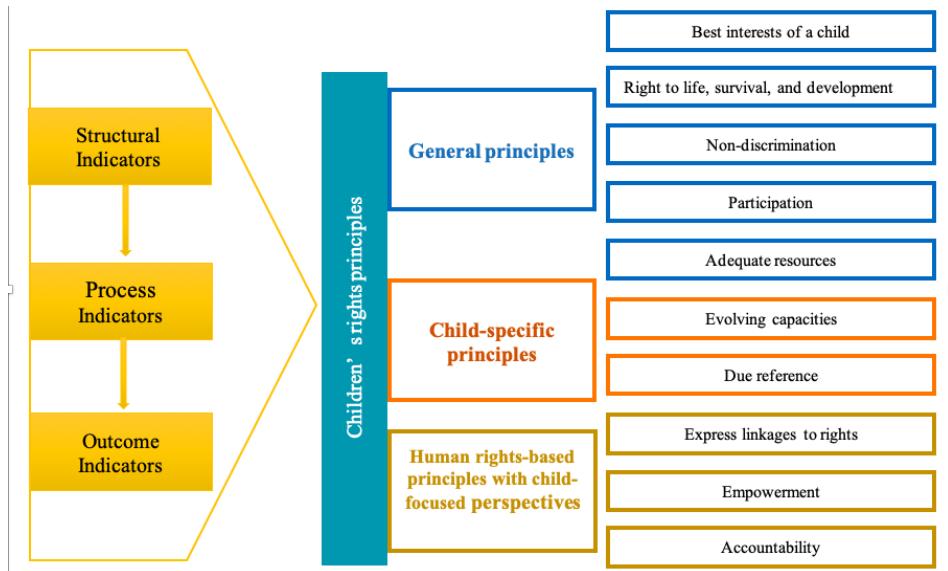


Figure 1: The conceptual framework, adapted from the framework of the OHCHR (2011, pp.39)

4. OPERATIONALISING GENERAL PRINCIPLES

According to Articles 3.1, 6, 2 and 12 of the CRC, the UN Committee on the Rights of the Child has identified four 'general principles', commonly known as '*best interest of a child*', '*right to life, survival, and development*', '*non-discrimination*', and '*participation*' respectively, which are central to the effective implementation of the CRC (UN Committee on the Rights of the Child 2003). Firstly, the *best interests* principle is considered to be the main anchor for mainstreaming child rights, ensuring that the interests of the child are a paramount concern in every action undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. The principle requires every legislative, administrative and judicial body or institution to systematically consider how children's rights and interests are or will be affected by their decisions and actions, including those which are not directly concerned with children, but indirectly affect children. These bodies and institutions are even held accountable for interventions that compromise their welfare (Agency for Fundamental Rights of the European Union 2010). As the UN Committee on the Rights of the Child (2013) noted children's lives differ significantly from each other depending on age, ethnic origin, socio-economic situation, disability, gender and other factors, the concept of the best interests of a child should be ideally determined on an individual basis, adjusted according to the specific situation of the child or children concerned.

STRUCTURAL INDICATORS

- Explicit emphasis on the best interests of a child as the guiding principle of the policy intervention; and
- Existence of child rights situation analysis as the base for policy intervention.

PROCESS INDICATORS

- Existence of a process to determine the best interests of the child, considering child as a unique self and taking into account changes in children's priorities and their short-term and long-term best interests.

OUTCOME INDICATORS

- Evaluation of the policy impact with regard to children's short-term and long-term best interests; and
- Existence of user-friendly child impact assessment tools for all levels of government and parliament to ensure that child rights impact assessments are carried out on existing and proposed legislation and policy affecting children, either directly or indirectly.

The second core principle is the *right to life, survival, and development*, which can be translated into the child's inherent right to life and states' obligation to ensure to the maximum extent possible the survival and development of the child. It is important to interpret this concept in its broadest sense – covering the holistic development of the child, in all physical, mental, moral and social terms (UN Committee on the Rights of the Child 2003). This principle organically relates with the issue of accessibility – guaranteeing the right to basic services and equality of opportunity for all children to achieve their full development (Jonsson 2003).

STRUCTURAL INDICATORS

- Orientation of the policy's objectives towards addressing children's survival and development issues such as nutrition, shelter, an adequate living standard, and access to medical services and to ensure child's physical, mental, spiritual, moral, psychological and social development.

PROCESS INDICATORS

- Existence of the policy's programmes and activities implemented to solve children's survival and development issues, such as nutrition, shelter, an adequate living standard, and access to medical services and to ensure child's physical, mental, spiritual, moral, psychological and social development.

OUTCOME INDICATORS

- Evaluation of policy's outcomes and impact particularly in relation to children's survival and development issues, including nutrition, shelter, an adequate living

standard, and access to medical services and to ensure child's physical, mental, spiritual, moral, psychological and social development.

The third cross-cutting principle is *non-discrimination* obliging States to respect and ensure the rights set forth in the CRC without discrimination of any kind. As contrasted with the HRBA, the CRBA prohibits not only division lines among children as individuals on their own, but also those discriminating acts based on children's families. Hence, a child must be protected against all forms of discrimination or punishment on the basis of "the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members" (Article 2(2) of the CRC). It must be emphasized that the application of the non-discrimination principle of equal access to rights does not mean identical treatment, on the contrary, the principle calls for particular attention to individual children and groups of children whose rights may demand special measures to be realised (UN Committee on the Rights of the Child 2003). As further identified by European Commission (2016) as 'children living in vulnerable situations', they may include those living in poverty, in conflict and fragile situations, children with disabilities, children deprived of their liberty or in conflict with the law, migrant and refugee children, unaccompanied children and those without family.

STRUCTURAL INDICATORS

- Inclusion of non-discrimination analysis as part of child rights situation analysis (which groups of children experience discrimination, multiple forms of discrimination on the basis of different aspects of social identity);
- Policy interventions/legal frameworks based on statistics that are disaggregated by key variables of exclusion (such as sex, ethnicity, disability status and others); and
- Special consideration given to children in vulnerable situations during defining the public issue, formulating policy alternatives, and adopting the public policy.

PROCESS INDICATORS

- Existence of clear indicators to measure a reduction in discrimination and changes in attitude;
- Implementation and monitoring based on statistics that are disaggregated by key variables of exclusion (such as sex, ethnicity, disability status and others) to identify which children groups are included and which children groups are excluded or marginalised from the benefits or services provided by the policy; and
- Functioning of specific institutions monitoring the service provision to children with disabilities, minorities, indigenous, girls, and migrants.

OUTCOME INDICATORS

- Assessment of the intended and unintended impacts on different groups;
- Availability of disaggregated data on which groups of children benefit from the results of policy intervention (groups specified by age, sex, ethnicity, disability status, household income and rural/urban); and

- Analysis on what ways have certain groups of children benefited disproportionately from a policy intervention (e.g. how has the inadequacy or lack of certain policy areas disadvantaged certain groups compared to others? Who is disadvantaged by current policies or the lack of social policies?).

The other core principle is *participation* concerning “the right to express his or her views freely” in “all matters affecting the child”, highlighting the role of the child as an active participant in the promotion, protection and monitoring of his or her rights (UN Committee on the Rights of the Child 2003). Applying equally to all measures adopted by member states to implement the CRC, the principle recognizes children as actors of change and their potential to influence decision-making processes (Iusmen 2018), distinguishing CRBA from the traditional welfare approach (Tobin 2009). The principle asks for respect for the views and voices of the child, with due weight given in light of his or her age and level of maturity. This notion also embeds an important consideration that along the child's development, greater autonomy must be accorded to his or her in the determination of the child's short-term and long-term interests. At the same time, participation must build and contribute to the child's development and evolving capacities (Jonsson 2003), which is closely linked to the best interest of the child. However, in practice, children themselves generally do not feel that they have been listened to, due to the fact that their views have not been taken into account in the subsequent decision or the complete lack of feedback (Save the Children Sweden 2011).

STRUCTURAL INDICATORS

- Existence of consultation activities with children and their parents/guardians and other stakeholders to define the issue, formulate policy alternatives, and adopt the public policy;
- Aspects of accessibility (physical and/or financial) covered by the policy adoption; and
- Inclusion of provisions to raise awareness about the content of the policy adopted.

PROCESS INDICATORS

- Existence of processes for children and their parents/guardians and other stakeholders, to challenge government decisions regarding levels of benefits, services, budget information and exercise their roles of monitoring policy implementation (participatory budgeting),
- Existence of hearings and mechanisms for redress with accessibility guaranteed to all persons, especially children and their parents/guardians
- Due respect for the voice of children as agency of change, with reference to their evolving capacities and stages of development; and
- Existence of institutions with a specialised focus on facilitating children to raise their voice.

OUTCOME INDICATORS

- Evaluation and statistics on how beneficiaries of the policy intervention, especially children and their parents/guardians, feel that their needs and opinions were taken into account in the development and implementation of the policy

Apart from the four core children's rights principles just analysed, the 'Five umbrella rights' model developed by UNICEF proposes to consider also *adequate resources*, articulated by Articles 4 of the CRC, as a fifth core children's rights principle (UNICEF 2009). This principle requires that, whatever their economic circumstances, states need to demonstrate they have implemented, to the maximum extent of available resources, measures to ensure children's survival and development. The concept of 'progressive realisation' of rights has been introduced by the UN Committee on the Rights of the Child (2003) as a measure to prevent any lack of resources, in financial terms and other resources, from hampering the full implementation of children's rights, particularly economic, social and cultural rights in some states.

STRUCTURAL INDICATORS

- Budget allocation responds to practical and strategic needs and interests of children as prioritized through a child-rights context analysis;
- Explicit guarantee of sufficient and effectively utilisation of resources to finance the implementation of child rights commitments made by the policy under review.

PROCESS INDICATORS

- Data trends of the level of expenditures (e.g. in what areas, if any, have expenditures increased/decreased? Who has been affected by this change?);
- Remedies for 'fracture points' between objectives, plans, budgets and implementation; and
- Existence of tools for budgetary analysis which provide the basis for practical models in order to make children more visible within those budgets.
- Involvement of other ministries to put in place the cross-sectoral planning process.

OUTCOME INDICATORS

- The level and/or percentage of national/ state/local budget allocated for the policy intervention.
- Evaluation and statistics on 'fracture points' to ensure child rights priorities are fully budgeted and implemented.

5. OPERATIONALISING CHILD-SPECIFIC PRINCIPLES

Two other CRBA principles are *evolving capacities* and *due reference*, which specifically address children's special features. These two child-specific principles are directly derived from the CRC and aimed to provide specific promotion and protection of children's rights, supplementing the core principles previously described.

The principle of *evolving capacities* emphasizes children's entitlements for increasing autonomy in the exercise of their rights and, at the same time, children's entitlements for protection in accordance with their relative immaturity (Lansdown 2005). This principle not only highlights the balance required between empowerment and protection but also signifies related duties to assist children in developing their capacities.

STRUCTURAL INDICATORS

- Recognition and reference to children as central actors in their development process with evolving capacities; and
- Provisions on empowerment strategies for children as rights-holders to enjoy their rights.

PROCESS INDICATORS

- Functioning of empowerment programmes and activities which are strengths-based, with a focus on fostering children's existing assets and capacities; and
- Provisions of necessary resources for children to grow across the life course as well as to understand and express their distinct ways of communicating, processing information, and learning.

OUTCOME INDICATORS

- The extent to which children can grow successfully across their course of life, understand and express their distinct ways of communicating, processing information, and learning.

The principle is of *due reference* requires respect for parents and guardians, regarded as both duty-bearers and rights-holders in the exercise of children's rights (Tobin 2009). Especially, the principle stresses due attention paid to the necessity of empowerment interventions for these stakeholders.

STRUCTURAL INDICATORS

- Provision on the roles and rights of parents and guardians of children in the realisation and enjoyment of children rights

PROCESS INDICATORS

- Functioning of empowerment programmes to improve rights awareness and financial potential of children's parents and guardians.

OUTCOME INDICATORS

- Evaluation and statistics on how parents/guardians are impacted by the policy under review.

6. Operationalising human rights-based principles with child-focused perspectives

There are also CRBA principles which are derived from a general human rights-based approach to be put under child-focused perspectives. The first to mention among this type of principles is *express linkages to rights*, which is the core principle of a rights-based approach and provides the foundation from which all other principles of a rights-based approach are derived. It requires rights and standards to be integrated into every aspect of decision-making. Those rights contained in international human rights treaties are at the core of a rights-based approach. Accordingly, reference to children's rights has to be made in each stage of identifying the problem, decision-making, implementing, monitoring, and evaluating the impact.

STRUCTURAL INDICATORS

- Integration of children's rights perspectives into defining the issue and formulating policy alternatives; and
- Explicit alignment of the policy intervention with the CRC and other relevant children rights instruments.

PROCESS INDICATORS

- Policy measures implemented and monitored with reference the CRC and other relevant children rights instruments as guidelines.

OUTCOME INDICATORS

- Indicators for the impact evaluation developed based on the CRC and other relevant children rights instruments.

The second CRBA principle under this category is *empowerment* which focuses on the process of developing the capacity of children as rights-holders to claim their rights, both directly and through their families and communities, and contribute to the claiming of their rights, with regard to children's evolving capacities, so that a higher level of children's participation can be enhanced. The principle also places emphasis on supporting the strengths and resources of all social systems of which the child is a part: family, school, community, institutions, religious and cultural systems (Byrne 2018).

STRUCTURAL INDICATORS

- Provisions with express attention given to empowerment and capacity-building strategies for children, parents or guardians of children, and officials and staff in charge.

PROCESS INDICATORS

- Existence of programmes aimed at building capacity and empowering children to be able to claim and enjoy their rights;
- Existence of capacity-building programmes targeted at parents or guardians of children, especially in terms of children rights literacy and financial capacity; and
- Existence of programmes for officials and staff in charge to raise their awareness on children's rights, children's best interests, and their participation with regard to their involving capacity at different stages of development.

OUTCOME INDICATORS

- Data and statistics showing increased capacities of children, their parents/guardians as well as officials and staff as impact of the policy intervention.

Another principle that is explicitly derived from and follow the core principle of a rights-based approach is *accountability*. This principle imposes duty on the state, holding it accountable for securing and protecting children's rights as provided by Article 4 of the CRC. Children are believed to have relatively greater difficulties in claiming their rights and pursuing remedies for breaches and violations due to their special and dependent status, therefore, the UN Committee on the Rights of the Child (2003) called for states' particular attention to the availability of effective, child-sensitive procedures for children and their representatives to claim their rights.

STRUCTURAL INDICATORS

- Stipulation of the state's obligations to respect, promote, and protect children rights in the national and local legal documents, with provisions referring to children as well as their parents or guardians as rights-holders (and their entitlements).

PROCESS INDICATORS

- Functioning of the institutions monitoring the service provision of the policy under review between citizens and national authorities;
- Functioning of accountability mechanisms with responsibility of implementation made clear to and open to input from children and their parents/guardians;
- Functioning of comprehensive information systems, including the collection of sufficient data and good reporting to ensure that all information related to policy-making processes are made available and accessible in a timely manner for children and their parents/guardians; and
- Access to development processes, institutions, information and redress or complaint mechanisms for children and their parents/guardians.

OUTCOME INDICATORS

- Trend data of complaints over time and analysis of possible reasons for the trend;
- Evaluation of policy accessibility, especially to children and their parents/guardians.

7. CONCLUDING REMARKS

Great concern has been raised in the literature about the weaknesses of applying CRBA in practice, for example the lack of effective mechanisms and structures to promote and co-ordinate implementation of child rights policy at national levels and other levels of governance (Save the Children Sweden 2011; Frazer 2010). It has also been reported that financial crises, which have led to the deterioration of the economic position of families, and deep cuts in public spending in recent years have adversely impacted on children, particularly those more vulnerable and disadvantaged (Save the Children Sweden 2011). Furthermore, there always remains a gap between the rhetoric of children's rights-based principles endorsed by the state and their actual implementation on the ground. For example, in the EU context, policy makers often fail to develop and apply genuine and meaningful child participation instruments, and instead deploy non-genuine participation mechanisms "which disguise what is actually the manipulation of children, or tokenism" (Iusmen 2018). Practical challenges that the advocates for CRBA have to deal with come from the contested nature and content of rights themselves, as well as social, political, and cultural contexts. The first limitation to mention, and also the major one, is the contested nature of children's rights, which are prone to being perceived as "disturbance to the structure and foundations of the family unit" (Guggenheim 2005). The absence of a child rights culture affects the ability of governments and other stakeholders to implement child rights policies and practices (Save the Children Sweden 2011). In addition, principles and standards which are central to a rights-based approach involving children often have vague and ambiguous meaning in practice, especially given the balance to be struck between child protection and child autonomy. Another limitation of rights-based approaches in general concerns the competing nature of claims (Tobin 2011), especially in the context of the allocation of scarce resources. Moreover, the marginalised status of children's rights-based frameworks at both the international and domestic levels may be attributed to their attempts to redistribute power within any society. For this reason, in many local contexts, the subject of rights, especially discussions on equal rights of minority and indigenous children, or demands for accountability of political leaders are regarded as a politically sensitive issue (Dang 2018; UNICEF 2014). This prevents public discussion and results in the absence of a proper explanation of HRBA and CRBA and affects the effectiveness of these frameworks. There are also several socio-political challenges of applying child rights-based approach to policy making. Among those is the issue concerning the variety of factors that influence policy maker's individual preferences. In light of social priorities and resource constraints, along policy-making processes, the bases for prioritisation often include comparative advantage or urgency of need (UNICEF 2014), or risk management and economic utility (Tobin 2011), instead of human rights-based or children's rights-based frameworks. Also, the application of a CRBA is challenged due to its lack of 'disciplinary legitimacy' (Tobin 2011). To briefly explain, those issues concerning children that a CRBA framework aims to address are also the subject of a variety of disciplines, including economics, psychology, sociology, public health,

education, social work, etc., which have developed their own models to resolve the problem. The challenge, therefore, is to demonstrate the utility of this approach and the value it can add to the resolution of the problems (Darrow and Tomas 2005), thus arriving at an inter-disciplinary children's rights-based framework.

There exists no common template of CRBA but different frameworks, interpretations and ways for practical implementation that are indicated by existing scholarship. These frameworks, however, all take to their core the recognition of children as primary rights-holders and the state as the main duty-bearers, thus they strive to ensure the enjoyment of rights by children and the fulfilment of corresponding obligations by the state. A range of children's rights-based principles have been identified to achieve this end and these are taken from the CRC and other international human rights treaties. The children's rights-based policy analysis developed in this paper can be seen as a principles-based approach in which the lens of children's rights principles is employed to evaluate state's public policy. Three aspects of policy commitment and progress towards the realisation and enjoyments of children's rights, which include legal structures, specific policy initiatives, and accumulated results over time, are captured respectively by structural, process, and outcome indicators. These aspects are then respectively evaluated with principles-based indicators to see whether policy commitment and progress made by the state complies with children's rights standards and norms. It should be noted that, where applicable, these indicators need to look into the accessibility of the measure or mechanism installed to be executed rather than their mere availability. The indicators suggested in this article only reflect certain aspects of each child rights principle and can be applied to different policy fields that have either direct or indirect impact on children's rights. Furthermore, given that practical meaning of children's rights principles remains an ongoing debate, it is necessary to emphasize that the principles-based indicators we suggested refer to general comments and recommendations of the UN Committee on the Rights of the Child as well as practical guidelines provided by UN agencies and international NGOs working on children's rights issues. For this reason, the list of indicators is not exhaustive.

Furthermore, due to the broad scope of children's rights principles and standards which are central to CRBA, the collaboration of different stakeholders is essential for the selection of indicators to capture different aspects of the principles. As noted by the OHCHR (2012), this process should involve discussions with an international panel of experts together with national stakeholders. They may include human rights institutions, policymakers and agencies responsible for reporting on the implementation of human rights treaties, statistical agencies and representatives from civil society, and especially the most vulnerable group impacted by the policy. This is crucial because some stakeholders may actually identify several key attributes on specific human rights and several corresponding indicators for monitoring them without having any knowledge of human rights instruments. Feedbacks are indeed useful to contextualise and improve the CRBA, enabling it to acquire a more reflective and internally coherent meaning. The process of indicator review and validation makes this possible by involving a larger interpretative community, so that the legitimacy and influence of the CRBA can be enhanced.

Bibliografía

- Agency for Fundamental Rights of the European Union (2010). Developing indicators for the protection, respect and promotion of the rights of the child in the European Union.
- Birkland, T. A. (2015). An introduction to the policy process: theories, concepts, and models of public policy making. 3rd Edition ed. New York: Routledge. <https://doi.org/10.4324/9781315717371>
- Broberg, M. & Sano, H.-O. (2018). Strengths and weaknesses in a human rights-based approach to international development - an analysis of a rights-based approach to development assistance based on practical experiences. *The International Journal of Human Rights*, 22(5), 664-680. <https://doi.org/10.1080/13642987.2017.1408591>
- Byrne, B. & Lundy, L. (2019). Children's rights-based childhood policy: a six-P framework. *The International Journal of Human Rights*, 23(3), 357-373. <https://doi.org/10.1080/13642987.2018.1558977>
- Byrne, K. (2018). Towards a Child Rights-based Assessment Tool to Evaluate National Responses to Migrant and Refugee Children Innocenti. Florence: UNICEF Office of Research.
- Cadge, N. (2011). A Rights-Based Approach to Children's Health. In: Rights-Based - Approaches to Public Health. New York: Springer Publishing Company, 183-200.
- CARE International (2019). Accountability & Transparency. Available at: <https://www.care-international.org/who-we-are-1/accountability-transparency> [Accessed 18 2019].
- Cowden, M. (2016). Children's Rights from Philosophy to Public Policy: Palgrave Macmillan US.
- Dang, T. N. (2018). The Impact of Political Culture on the Human Rights-based Approach to Development in the Central Highlands of Vietnam. *Journal of Sustainable Development ISSN*, 30 1.11(1). <https://doi.org/10.5539/jsd.v11n1p101>
- Darrow, M. & Tomas, A. (2005). Power, capture, and conflict: a call for human rights accountability in development cooperation. *Human Rights Quarterly*, 27(2), 471-538. <https://doi.org/10.1353/hrq.2005.0015>
- Doek, J. E. (2019). The Human Rights of Children: An Introduction. In: U. Kilkelly & T. Liefaard, eds. *International Human Rights of Children*. Singapore: Springer, 3-30. https://doi.org/10.1007/978-981-10-4184-6_1
- European Commission (2019). EU Guidelines for the Promotion and Protection of the Rights of the Child: Leave no child behind

OPERATIONALISING CHILDREN'S RIGHTS PRINCIPLES: AN INDICATOR FRAMEWORK FOR POLICY ANALYSIS

- Agency for Fundamental Rights of the European Union (2010). Developing indicators for the protection, respect and promotion of the rights of the child in the European Union.
- Frazer, H. (2010). Who cares? Roadmap for a Recommendation to fight child poverty. Brussels, King Baudouin Foundation; FPS Social Integration.
- Gabel, S. G. (2016). A Rights-Based Approach to Social Policy Analysis. New York: Springer.
- Guggenheim, M. (2005). What's Wrong with Children's Rights. Cambridge, MA: Harvard University Press. https://doi.org/10.1007/978-3-319-24412-9_1
- Hanson, K., and Lundy, L. (2017). Does Exactly What It Says on the Tin? The International Journal of Children's Rights 25 (2), 285. <https://doi.org/10.1163/15718182-02502011>
- Iusmen, I. (2018). How Are Children's Rights (Mis)Interpreted in Practice? The European Commission, Children's Rights and Policy Narratives. In: R. A. W. Rhodes, ed. Narrative Policy Analysis Cases in Decentred Policy: Springer, 97-120. https://doi.org/10.1007/978-3-319-76635-5_5
- Jonsson, U. (2003). Human Rights Approach to Development Programming: UNICEF.
- Kennan, D. et al. (2011). A rights-based approach to monitoring children and young people's well-being.
- Kickbusch, I. (2012). Learning for Well-being: A Policy Priority for Children and Youth in Europe. A process for change: Universal Education Foundation.
- Lansdown, G. (2005). The Evolving Capacities of the Child: UNICEF.
- Lundy, L. & Kilkelly, U., & Byrne, B. (2013). Incorporation of the United Nations Convention on the Rights of the Child in Law: A Comparative Review. The International Journal of Children's Rights 21(3), 442. <https://doi.org/10.1163/15718182-55680028>
- Munro, L.T. (2009). The 'human rights-based approach to programming': a contradiction in terms? in S. Hickey and D. Matlin (eds), Rights Based Approaches to Development: Exploring the Potential and Pitfalls. Sterling, VA: Kumarian Press, 187-205.
- OHCHR (2012). Human Rights Indicators: A Guide to Measurement and Implementation.
- Paré, M. & Collins, T. (2017). Report on the Anti-Bullying Child Rights Assessment Tool Launch: University of Ottawa.
- Save the Children (2016). Every last child: The children the world chooses to forget

- Save the Children Sweden (2006). Child Rights Programming - How to Apply Rights-Based Approaches to Programming: A Handbook for International Save the Children Alliance Members. 2nd Edition ed.: Save the Children Sweden.
- Save the Children Sweden (2011). Governance for Children: To what extent have the general measures of implementation of the UNCRC been realised in five European Countries? Stockholm: Save the Children Sweden.
- Schröder-Bäck, P. et al. (2019). A Heuristic Governance Framework for the Implementation of Child Primary Health Care Interventions in Different Contexts in the European Union. *The Journal of Health Care Organisation, Provision, and Financing*, 56, 1-9. <https://doi.org/10.1177/0046958019833869>
- Seitz, C. (2012). Rights based programming for children in conflict-affected areas - Operational Experience from the Middle East Region: Save the Children Sweden.
- Tobin, J. (2009). Judging the judges: are they adopting the rights approach with respect to matters concerning children? *Melbourne University Law Review*, 33(2), 579-625.
- Tobin, J. (2011). Understanding a Human Rights-based Approach to Matters Involving Children: Conceptual Foundations and Strategic Considerations. In: *The Human Rights of Children from Visions to implementation*. Farnham: Ashgate Publishing limited, 61-98.
- UN Committee on the Rights of the Child (2003). General comment no. 5: General measures of implementation of the Convention on the Rights of the Child.
- UN Committee on the Rights of the Child (2013). General comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration.
- UNDG Human Rights Working Group (2003). The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies. Available at: <https://undg.org/document/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies/>
- UNDG (2016). 2030 Agenda. Available at: <https://undg.org/2030-agenda> [Accessed 1 August 2019].
- UNESCO and UNICEF (2007). *A Human Rights-Based Approach to Education for All*. New York: UNICEF.
- UN Human Rights Council (2017). Resolution on the rights of the child: protection of the rights of the child in the implementation of the 2030 agenda for sustainable development, UN doc. A/HRC/34/L.25, adopted 21 March 2017
- UNICEF (2007). 'Program Policy and Procedure Manual - Program Operations, Revised February'

OPERATIONALISING CHILDREN'S RIGHTS PRINCIPLES: AN INDICATOR FRAMEWORK FOR POLICY ANALYSIS

- UNICEF (2009). Toolkit: A Human Rights Based Approach: A User-friendly guide from UN Staff in Viet Nam for UN staff in Viet Nam: United Nations Viet Nam.
- UNICEF (2014). EU-UNICEF Child Rights Toolkit: Integrating Child Rights in Development Cooperation. New York: UNICEF.
- UNICEF (2015). Social Monitor: Social protection for child rights and well-being in Central and Eastern Europe, the Caucasus and Central Asia, Geneva: UNICEF.
- UNICEF (2018). A child rights-based approach to food marketing: a guide for policy makers.
- United Nations Research Institute for Social Development (2016). The Human Rights-based Approach to Social Protection.
- Vandenhove, W. (2013). Child Poverty and Children's Rights: An Uneasy Fit? Michigan State International Law Review, 22(2), 609-636.