

## **Oak Foundation – Child Abuse Programme Guiding Principles**

**Background and a more detailed elaboration of the  
programmatic implications of the guiding principles**

## **Acknowledgement**

The principles outlined in this paper are neither new nor exclusive to Oak Foundation's Child Abuse Programme. This paper highlights the principles that guide our work, but also moves the discussion from simply a statement of the principles, to an exploration of how they might be reflected in our own work and the work of those with whom we partner. We take this opportunity to acknowledge the extensive support given to us by Gerison Lansdown in developing these ideas, and the helpful reflection and comments on the draft documents by our partners in Bulgaria and Switzerland and programme staff.

This expanded version of the Paper provides some of the background to the development or adoption of some of the Principles, and offers additional practical examples of how the application of the Principles might impact practice and policy.

A briefer version of the Paper is also available on our website.

## Table of Contents

|   |       |
|---|-------|
| Principle One: Child rights-based   | p. 5  |
| Principle Two: Child participation  | p. 9  |
| Principle Three: Non-discrimination   | p. 15 |
| Principle Four: Best interests of the child   | p. 20 |
| Principle Five: Respecting and building on strengths  | p. 26 |
| Principle Six: Do no harm   | p. 30 |
| Appendix One: An approach to monitoring and evaluating implementation of the six principles | p. 35 |

## Introduction

Oak Foundation's Child Abuse Programme puts the child at the centre of all the work it supports. This statement has guided our work over the past decade, and we now feel that it is time to clarify and expand on this, with some additional details and reflection on each of the principles that help frame what we do.

The work of the Child Abuse Programme is guided by six interrelated and mutually reinforcing principles. The foundational principle is that the work we support is child rights-based. This is a stand alone principle and one that is achieved through the integration and operation of five other core principles.

Our work is not operational, and so primarily these principles will be reflected through the work we support that is implemented by our partners.

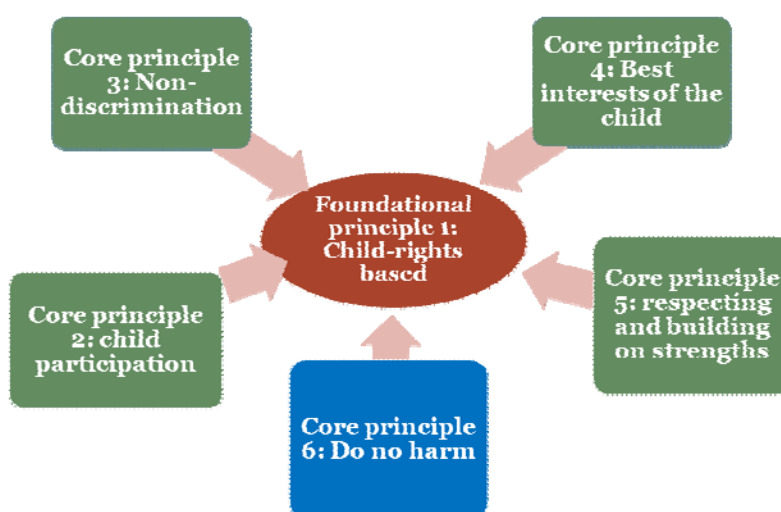


Figure 1. Gerison Lansdowne, Oak Foundation's Core Principles

These are not exclusive to Oak Foundation; they frame and guide much of the work being undertaken with, for and by children all over the World. This paper has been developed to help make these principles more concrete for us and our partners. The aim is a common understanding of what they mean and how they might apply to practice. It is intended to:

- enable **potential applicants** to understand the principles which underpin our work;
- enable **the Child Abuse Programme** to be more transparent and consistent in identifying applicants whose work is consistent with these principles; and
- provide greater consistency and clarity for **applicants and the Child Abuse Programme** in assessing how these principles are reflected in programmes.

The Child Abuse Programme recognises that the programmes it funds vary widely in scope, focus, approach and methodology. How the principles are integrated or reflected will also inevitably differ according to the design and orientation of those programmes. This may range from a minimum of not contradicting the principles, to actively promoting their realisation throughout a programme of work, and beyond. We see this as a process, part of an ongoing dialogue with partners on the various forms and degrees of integration of the principles into practice. This paper is not attempting to impose a blueprint or limit the range of work we support; it is trying to provide clarity and consistency for our own staff, applicants and partners, to help build a common understanding of the underlying values of the Child Abuse Programme.

# 1 Principle One: Child rights-based

Interventions should reflect the fact that children have rights and that states and civil society, including families, have obligations to respect and facilitate their realisation. These rights are interrelated and mutually reinforcing. Children's agency and competency to participate actively in realising these rights is recognised but varies with age and stage of development.

## Understanding the principle

Nearly every country in the world has ratified the Convention on the Rights of the Child (CRC). This commits governments to obligations to ensure that they:

- **Fulfil rights** – adopt all necessary measures, including legislation, policies and resources, to ensure that rights are realised – this might include the development of comprehensive and accessible health services, or policies and resources to ensure that all children have an equal right to education;
- **Respect rights** – do not act in any way which interferes with children's rights, such as denying children with disabilities the right to family life by placing them in institutions, or restricting freedom of expression or religion;
- **Protect rights** – take action to ensure that children are protected from violations of their rights by other people such as discrimination, exploitation or violence.

A child rights-based approach to programmes or projects involves taking action to address the fulfilment of, protection of or respect for children's rights. It means describing situations not in terms of children's needs, but in terms of the obligation to respond to the fact that they have rights. It is not enough just to provide 'handouts to the poor', or short term initiatives to alleviate harm. A rights-based approach involves taking action, including empowering children and their families, to hold governments to account for commitments they have made on those children's behalf.

**A welfare or needs-based approach:** A local NGO is concerned at the vulnerability of the growing number of girls involved in child prostitution on the streets. It establishes a local refuge, providing shelter, food, education and vocational training to try and provide greater protection and alternatives choices for the girls involved.

**A rights-based approach:** The NGO undertakes a consultation with girls working as child prostitutes to identify their primary concerns and collaborates with them in developing a programme to address those concerns. In the immediate term, this involves provision of safe spaces where they can keep their possessions and money, as well as a place where they can meet socially and have food and shelter. Importantly, these services are designed with the girls themselves. However, it also involves dialogue with the local police about how they can change their practices to improve safety, with education ministries about improving access to school, and with the government about reforming the law relating to protection of girls on the streets, including the right to protection from sexual violence and rape.

*The most significant difference between the two approaches is that a child rights-based programme does not simply decide what the girls need and set out to provide it. Rather, it seeks to create a space for the girls to articulate their own concerns and to support them in understanding that they have rights, in challenging the rights violations they experience, and in holding governments to account in protecting those rights.*

Being child rights-based has implications for both the process and the outcome of any project or programme:

- **The way it is designed and implemented** must be consistent with respect for children's rights, for example, their rights to protection from violence, to express views and have them taken seriously, to recognition of their best interests, to family life, to non-discrimination
- **The outcomes, and indicators or benchmarks** against which progress is measured, must be articulated in terms of the rights they are seeking to promote.

## Why we emphasise child rights-based approaches

- Oak Foundation envisions a world where **all children are protected from sexual abuse and sexual exploitation**. The Child Abuse Programme works to achieve this goal by catalysing stakeholders, including children, to improve practice, influence policy and increase funding to address the sexual abuse and sexual exploitation of children.
- The CRC has been ratified by nearly every country in the world. It therefore provides a **widely recognised value base for all actions concerning children's lives**, and establishes universally recognised and comprehensive rights for every child. Governments have undertaken clear commitments to fulfilling these rights and to ensuring the greatest possible protection to children in all situations from violence, abuse, exploitation and neglect. As such the CRC offers the strongest possible basis for programming.
- In addition, there are **many regional and international instruments which reinforce the CRC** and its commitment to respecting the human rights of children, such as the African Charter on the Rights and Welfare of the Child, the European Convention on Human Rights, the Hague Conventions, for example, on Inter-country Adoption, the Convention on the Rights of Persons with Disabilities, and many others.
- Oak Foundation, therefore, believes that **its work is best addressed through the holistic and coherent framework of children's rights**, using the CRC as the central instrument to define its goals, establish standards, measure progress and hold governments to account.


## Implications of a child rights-based approach for programmes

Ensuring that a programme or project is child rights-based necessitates a clear focus throughout on what those rights are, what action is needed to ensure that they are realised and how to measure whether progress is being made in their realisation. It will involve thinking not only about what is being done, but also how it is being done. Working towards the realisation of children's rights requires that the following steps are taken when developing and implementing a programme or project.

### Situation analysis

Before developing a programme, it is always necessary to undertake an analysis of the situation affecting children in order to find out what action is needed and why. A child rights situation analysis will need to address, for example:

- **What rights are being violated or neglected and why?** For example, large numbers of girls are experiencing female genital mutilation. What are the causes – belief that it serves to protect girls, or make them more marriageable, religious convictions, that fact that it is part of local traditions, fear of social exclusion if it is not done, male attitudes of domination and control over women, importance of rites of passage within the culture?
- **Who is responsible for addressing these rights?** What are their obligations and what are the obstacles to them meeting those obligations. Those responsible might include, for example, governments, health professionals, family members, or community and religious leaders. The barriers might relate to lack of knowledge of the harmful consequences, inadequate protective legislation to hold perpetrators to account, lack of information about



Find out what is happening to children and why

the law and how to use it, lack of alternative positive rites of passage, powerlessness of women and girls within the society.

- **What are children's, parents' and other key adults' perspectives on what is happening to them?** How do they feel their rights are respected or violated? What would they like to see change?


## Programme design and implementation

A child rights-based project or programme might involve elements of any or all of the three following types of activity:

- **Tackle violations and gaps in the realisation of rights** – for example, advocacy or campaigns to raise awareness and change attitudes and practice relating to violence in schools, sexual exploitation and trafficking, or abuse of children with disabilities; establishing pilot projects to address rights violations or gaps in provision which can be scaled up by governments; interventions to protect children's rights in situations of conflict or disaster.
- **Strengthen the systems, structures and mechanisms** – for example, working towards the introduction of legislation or policies which respect and protect children's rights such as prohibitions on corporal punishment of children or female genital mutilation; legislative and policy frameworks for introducing inclusive education for every child; measures to ban the creation, storage, dissemination or exchange of real or simulated child abuse images; or social protection measures to address poverty and inequality.
- **Strengthen capacity** – for example, building systems to provide training and education on children's rights for all professionals working with children; working with governments to introduce structures through which to ensure that government officials have sufficient knowledge and understanding of their responsibilities for the fulfilment, protection and respect for children's rights; working with parents to empower them to advocate for and protect their children's rights; undertaking research on children's lives to enhance knowledge and awareness; development of tools and resources for capacity building.



Act directly



Take action to get governments to meet their responsibilities



Work to support governments and local communities to protect children's rights!

Not all programmes will include, or place an equal emphasis, on all three areas of activity. However, programmes should work towards trying to ensure that all three are given consideration over their life cycle. A commitment to **tackling both immediate problems and the underlying causes**, while also working to empower children and families to begin to hold government and other to account, is a necessary approach, if sustainable outcomes for the widest possible number of children are to be achieved.

## Monitoring and evaluation

Monitoring and evaluation is a vital part of any programme approach: it is the means by which it is possible to assess whether your programme has achieved the outcomes that it set itself. A rights-based approach to monitoring and evaluation will involve the same processes, but require a focus on whether or not the programme been successful in working towards the fulfilment of, protection of or respect for children's rights. The process itself can also take account of and reflect these principles: participatory, non-discriminatory, promoting the best interests of the child, strength based and doing no harm. These approaches are consistent with a child rights-based approach to programming which is rooted in a commitment to empowering children, families and communities

to hold governments to account on their obligations to children. (see Appendix One for more information on monitoring and evaluation)

In the past, many programmes to address the situation of street children [and many other children who are unable or unwilling to return to their communities] have involved providing shelters and expecting children to live in them for their own protection. Many have failed. Children rejected them, because they did not address an overall understanding of their rights and their aspirations. A rights-based approach suggests it is necessary to engage with the children as to why they are on the streets, what rights are violated, their aspirations and goals, what strategies they would adopt to achieve change. Many are there because they have run away from abusive and violent homes. They often experience the shelters in a similar way. Far from protecting, they replicate the problem. Conversely, children often find some solidarity in the community on the streets. Instead of enforced rescue, children highlight the need for better understanding by the police, access to legal representation, opportunities for education and vocational training, safe places to keep their money and possessions, and access to micro-credit. Through these strategies, they are empowered to find sustainable solutions to the challenges they face.<sup>1</sup>

#### **Sources of information on child rights-based approaches**

- CRC General Comment No.13, Article 19: The Right of the Children to protection from all Forms of Violence, *CRC/C/GC/13*, Feb 2011
- E Learning in Child Rights Programming, [http://www.hrea.org/index.php?base\\_id=593&language\\_id=1](http://www.hrea.org/index.php?base_id=593&language_id=1)
- Save the Children Sweden (2005) *Child Rights Programming: How to Apply Rights-Based Approaches to Programming*
- Lansdown G (2005) *Rights-based approaches to programming: Implications for children*, Save the Children
- Jonsson U (2003) *Human Rights Approaches to Development Programming*, UNICEF
- Theis J (2004) *Promoting Rights-based Approaches - Experiences and Ideas from Asia and the Pacific*, Save the Children Sweden

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<sup>1</sup> Elena Volpi, *Street Children: Promising practices and approaches*, World Bank, 2001.



## 2 Principle Two: Child participation

Oak Foundation's Child Abuse Programme is committed to the meaningful involvement of children in all decisions that affect their lives. This includes promoting greater respect for children and their inclusion in decision-making within their families and communities. Children's capacities to participate and contribute need to be strengthened, and environments that encourage and support children in applying those capacities, created. The nature of children's participation will vary, reflecting their evolving capacity.

### Understanding the principle

Article 12 of the Convention on the Rights of the Child recognises that children have a right to be heard and taken seriously. The application of this right has been broadly conceptualised as '**participation**', although the term itself does not appear in the article. Of course, children have always participated in many ways within societies – for example, at the community level, through play and the arts, and in their economic contribution to their families. In the context of Article 12, however, the term 'participation' has evolved, and is now very widely used, as a shorthand to describe children's right to involvement in decisions and actions that affect them and to have those views taken into account.

It is a very broad ranging right which:

- Applies to **every child** capable of forming his or her own views. This does not just mean older children. The very youngest children, as well as children with disabilities, are able to form views, even where they are not able to communicate them verbally.
- Requires that children are able to **express their views freely** – in other words, that space and time are created for them to be heard.
- Applies to **all matters** that affect children whether they relate to the home, to the school, local community and local and national government. It also extends to both a) issues affecting children as individuals, such as medical treatment, court orders, or the choice of a school, and b) issues affecting children as a group, including, for example, schooling, transport, budget expenditure, urban planning, poverty reduction or social protection.
- Requires that children's views are given **due weight in accordance with their age and maturity**. This does not mean that adults must do whatever children want. However, it does mean more than just listening. It is also necessary to give their views serious consideration. And when considering their views, it is necessary to take account of how far they have the capacity to understand the implications and consequences of those views.

In addition, Article 12 has been identified by the Committee on the Rights of the Child as a general principle that must be applied in the measures taken to ensure the realisation of all other rights.

### Why we emphasise child participation

- We place a strong emphasis on the importance of child participation not only because it is a fundamental right but because it serves to promote and protect children's rights, and equips children with **skills, knowledge, competencies and confidence** which enhances their development.
- The active engagement of children **provides information and insight into their lives** with which to inform legislation, policies, budget allocation and services. Participation is central to a process of **building accountability** and promoting good governance. It is a means

through which governments and other duty bearers can be held to account. Community participation in government decisions helps improve public services, holds public officials to account, ensures justice and strengthens the rule of law.

- Participation will contribute positively to enhanced decision-making and improved outcomes. For example, it leads to **better protection**. Children who are silenced and passive can be abused by adults with relative impunity. Providing them with information, encouraging them to articulate their concerns and introducing safe and accessible mechanisms for challenging violence and abuse are key strategies for providing effective protection. Children who have access to information about health and sexuality are better able to protect themselves from unwanted pregnancy, sexually-transmitted diseases, and HIV. Child workers who form and join associations may be able to protect themselves better against exploitation and abuse.
- In addition, participation promotes **civic engagement and active citizenship**. Through experience of direct participation in matters of concern to them, children can become **active and effective advocates** for the realisation of their own rights, and acquire the capacity to contribute to the creation of peaceful and democratic societies which are respectful of human rights. Participation contributes to a culture of respect in which decision-making is undertaken through negotiation, rather than conflict. Children also learn that human rights are reciprocal and mutual and not a route to selfish individualism.

## Implications of child participation for programmes

We are not prescribing how programmes engage with children. That will be determined by the individual initiative in accordance with a broad range of factors: for example, the nature of the project, the goals sought, or the cultural context. However, programmes are encouraged to consider the potential for children's participation in their work. They will need to think through the following questions to help them do so:

- What **role** can children's participation play in the work of the project?
- What **form or level** of child participation is appropriate for the work being undertaken?
- How can the programme ensure that its participation is **effective and ethical**?

Addressing these questions will help to ensure that appropriate consideration is given to the issue, and will inform the way in which children are able to contribute to programmes. It will also provide guidance on how to monitor and evaluate progress in working with children.

## The role of child participation

Child participation can be either or both a means through which a programme works to achieve its objectives, and an end in itself. Both approaches are entirely legitimate, but it is important to be clear about the purpose of participation. That purpose will impact on the indicators or benchmarks identified for monitoring and evaluating the programme:

- **Participation as a means:** A programme may be seeking to achieve a goal such as ending violence towards children or increasing girls' access to education. In so doing, it may actively involve children as participants in, for example, advocacy, media work, research, or community sensitisation to achieve the outcome. It may seek children's views as part of its initial situation analysis or baseline survey, or to help inform its objectives, programme design, or implementation.
- **Participation as an end:** In some programmes, participation itself is the desired outcome. For example, a programme might be directed towards establishing a forum for children to influence decisions of the local municipality, to set up child parliaments or school councils, or

to ensure that children are heard appropriately in the judicial system whether in child protection proceedings, care proceedings, divorce, separation or adoption cases.

## Forms of child participation

In any given programme or project, there are three potential levels of engagement for children – consultative, collaborative and child-led. The extent to which children are empowered to engage in an initiative will be influenced by the level at which they are participating. However, **all three are valid approaches** and can be appropriate, depending on the goals of the programme or initiative. Programmes will not necessarily remain at one level. There is a dynamic and often over-lapping relationship between them. A programme can start as consultative process, move on to becoming collaborative and ultimately create space for children to initiate their own agenda.

**Consultative participation** - where adults seek children's views in order to build knowledge and understanding of their lives and experience. It is characterised by being:

- adult initiated;
- adult led and managed; and
- lacking any possibility for children to control outcomes.

It does not allow for sharing or transferring decision- making processes to children themselves. However, it does recognise that **children have expertise and perspectives which need to inform adult decision making**. Consultation is an appropriate means of enabling children to express views, for example, when undertaking research, in planning processes, in developing legislation, policy or services. For example, a programme might consult with children before deciding a course of action. It might undertake research with children to get their views on how to design a campaign, or to provide the basis of evidence of that campaign.

### Consultative participation: Children and health care in South Africa<sup>2</sup>

A project to improve the quality of health care for children undertook a consultation with children about their experiences. The children commented that nurses and doctors did not always seem to care about them or their health. When they were in pain, there was no-one to tell or to ask for help. They often felt lonely and frightened, particularly at night. Doctors and nurses sometimes shouted at them, or treated them roughly when, for example, changing bandages. Lack of privacy and respect for their dignity was another major concern. They also highlighted the lack of information provided by doctors which left them feeling unnecessarily anxious and lacking control, commenting that '*It makes us sad when we ask the doctor or nurse what is wrong and he won't tell you*'. Some criticism was also focused on their caregivers who often failed or refused to take them to a doctor even when they were sick or in pain. They felt that health professionals had a role to play in educating caregivers about early identification and referral. They also felt that health workers should be sensitized to the power relationship between adults as authority figures and children, children's vulnerability when sick, and to be encouraged to be more pro-active in offering care in ways that acknowledge the child's feelings.

These findings were used to develop improved training for health professionals and to introduce changes within the hospital to address the children's concerns.

**Collaborative participation** – where there is a **greater degree of partnership between adults and children**, with the opportunity for active engagement at any stage of a decision, initiative, project or service. It can be characterised as:

- adult initiated;
- involving partnership with children;
- empowering children to influence or challenge both process and outcomes;
- allowing for increasing levels of self-directed action by children over a period of time.

<sup>2</sup> Moses S and Urgoiti G, Child Rights Education for Professionals (CRED-PRO) , Pilot of the Children's Participatory Workshops, Cape Town, March 2008

Collaborative participation might include involvement of children in designing and undertaking research, policy development, peer education and counselling, participation in conferences, or in representation on boards or committees. Collaborative participation provides **opportunity for shared decision making with adults**, and for children to **influence both the process and the outcomes** in any given programme.

Consultative processes can be made collaborative by, for example, a research project:

- enabling children to identify what the relevant questions are;
- giving children the opportunity to help develop the methodology for the research;
- allowing children to take on the role of researchers;
- involving children in discussions about the findings, their interpretation and their implications for future developments.

**Collaborative participation: Child reporters as agents of change<sup>3</sup>**

A Child Reporters project in Koraput, Orissa, started with the selection of 100 children aged between 8-14 years- ten each from ten schools - in collaboration with the local authority and civil society partners. The children were selected by children, parents and the schools. The children were provided with orientation workshops on issues of development, journalism and reporting. Each team of 10 then regularly noted their thoughts and daily observations in diaries, which were collected together, and the best writings included in a monthly newsletter. The selections were made by an adult local facilitating group and the quality, content and selection reports were constantly discussed with the children. A group of the children were then also trained in using audio-visual equipment, and made a film recording a local planning process. A number of them went on to speak at national and international conferences. It is important to note that the children involved, came from a remote part of India where they had never before even seen a television. From starting out shy and unable to speak fluently, they became confident and successful in influencing their local communities.

□ **Child-led participation** - where children are afforded the space and opportunity to initiate activities and advocate for themselves. It is characterised by:

- the issues of concern being identified by children themselves;
- adults serving as facilitators rather than leaders;
- children controlling the process.

Programmes may decide to support the creation of spaces where **children can initiate action as individuals**, for example, by establishing and managing their own organisations, or by identifying problems within their communities that they wish to address. Child led or initiated action might also involve: policy analysis, advocacy, awareness raising; peer representation and education; and use of and access to the media. The role of adults in child- led participation is to act as facilitators to enable children to pursue their own objectives, through provision of information, advice and support.

**Child led participation: Children participating to claim childhood rights<sup>4</sup>**

A group of children aged 8-12 years old working in the coffee plantations in Nicaragua, met together to plan a campaign to defend their right to play. They were concerned that *"A lot of kids work on farms and plantations and they come home worn out, so they don't get to play. At harvest time the kids work all day and there's no time to play"*. The problems are compounded by parental attitudes: *"Parents tell girls, 'Go and find a job to do, and don't be playing'".*

They consulted with other children who expressed the view that play was important because:

- It's our right - and not just children, also big people"
- It makes us feel good
- It helps us share and express our feelings
- It helps us make friends and not be shy
- It helps kids relate to older people and feel respected
- It helps boys and girls relate to each other with respect
- We learn to share games, because not everyone knows the same games".

<sup>3</sup> Acharya L, Child Reporters as Agents of Change, in A Handbook of Children and Young People's Participation, ed Percy Smith and Thomas, Routledge, London, 2010

<sup>4</sup> Nicaraguan Children's Right to Play Campaign, 2010, [www.commonthreads.org.uk/righttoplayupdates.htm](http://www.commonthreads.org.uk/righttoplayupdates.htm)

Accordingly, they undertook research into the state of play within their communities, how girls were discriminated against, and what forms traditional play had taken within the community. They followed up the research by holding public meetings, and approaching the District Children and Youth Committee to promote positive attitudes towards children's right to play. The Committee responded positively to the children's message and has agreed to develop its own action plan for a more playful municipality.

## Ensuring effective and ethical children's participation

In order for children's participation to be effective, ethical, systematic and sustainable, there are a number of basic requirements that need to be met. These have been elaborated by the Committee on the Rights of the Child in its General Comment No.12 on children's participation<sup>5</sup>. They need to be reflected clearly in all programmes and projects working directly with children. Children's participation should be:

- **Transparent and informative:** Children must be provided with full, accessible, diversity-sensitive and age-appropriate information about their right to express their views freely and their views to be given due weight, and how this participation will take place, its scope, purpose and potential impact.
- **Voluntary:** Children should never be coerced into expressing views against their wishes and they should be informed that they can cease involvement at any stage.
- **Respectful:** Children's views have to be treated with respect and they should be provided with opportunities to initiate ideas and activities.
- **Relevant:** Opportunities must be available for children to express their views on issues of real relevance to their lives and enable them to draw on their knowledge, skills and abilities.
- **Child-friendly environments and working methods:** Adequate time and resources should be made available to ensure that children are adequately prepared and have the confidence and opportunity to contribute their views. The approaches to working with children should reflect their differing levels of support and forms of involvement according to their age and evolving capacities.
- **Inclusive:** Participation must be inclusive, avoid existing patterns of discrimination, be culturally sensitive to children from all communities, and encourage opportunities for marginalized children, including both girls and boys, to be involved.
- **Supported by training:** Adults need preparation, skills and support to facilitate children's participation effectively, to provide them, for example, with skills in listening, working jointly with children and engaging children effectively in accordance with their evolving capacities.
- **Safe and sensitive to risk:** Expression of views may involve risks. Adults have a responsibility towards the children with whom they work and must take every precaution to minimize the risk to children of violence, exploitation or any other negative consequence of their participation. Working with families and communities can contribute to building understanding of the value of participation, and minimize risks to which children may otherwise be exposed.
- **Accountable:** A commitment to follow-up and evaluation is essential. Children are also entitled to be provided with clear feedback on how their participation has influenced any outcomes. Wherever appropriate, children should be given the opportunity to participate in follow-up processes or activities. Monitoring and evaluation of children's participation needs to be undertaken, where possible, with children themselves.

<sup>5</sup> Committee on the Rights of the Child, General Comment No.12, the Right of the Child to be Heard, CRC/C/GC/12, July 2009, <http://www2.ohchr.org/english/bodies/crc/comments.htm>. and Lansdown G (2011) Every Child's Right to be heard, Save the Children/UNICEF for an elaboration of the requirements and how to meet them

### **Relevant Sources of information on children's participation**

- Committee on the Rights of the Child, *General Comment No.12, the Right of the Child to be Heard*, CRC/C/GC/12, July 2009, <http://www2.ohchr.org/english/bodies/crc/comments.htm>
- Lansdown G (2011) *Every Child's Right to be heard: A resource guide on the UNCRC General Comment No.12*, Save the Children/UNICEF
- Child and youth participation resource guide, UNICEF, <http://www.unicef.org/adolescence/cypguide/resourceguide.html>
- Willow C (2010) *Children's right to be heard and effective child protection: A guide for Governments and children rights advocates on involving children and young people in ending all forms of violence*, Save the Children, Bangkok
- Lansdown G and O'Kane C, (2011) *Framework and Toolkit for Measuring Children's Participation*, CRIN, [www.crin.org](http://www.crin.org)

### 3 Principle Three: Non-discrimination

All the work Oak's Child Abuse Programme supports must be implemented in a way that does not discriminate on the basis of race, colour, sex, sexual orientation, language, religion or other status of the child or his/her parents or guardians. Any affirmative action targeting a specific group should be designed to promote equality and inclusion.

#### Understanding the principle

Human rights apply equally to every child. **No-one must be discriminated against on any grounds.** This means, for example, that it is not acceptable to say that the right to education for children with disabilities is less important than for other children, and can wait until non-disabled children have access to school. It is not acceptable to allow different levels of funding for services for one ethnic group over another. Children who are stateless or refugees or asylum seekers have exactly the same rights as any other child – to food, shelter, education, and protection, for example.

Article 2 of the CRC places a clear obligation on governments to respect and ensure **all** rights to **all** children without discrimination on any grounds. Discrimination can be defined as *'any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, disability, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms'*. The Committee on the Rights of the Child has identified it as **one of four general principles that must be applied in the measures adopted for the realisation of all other rights.**

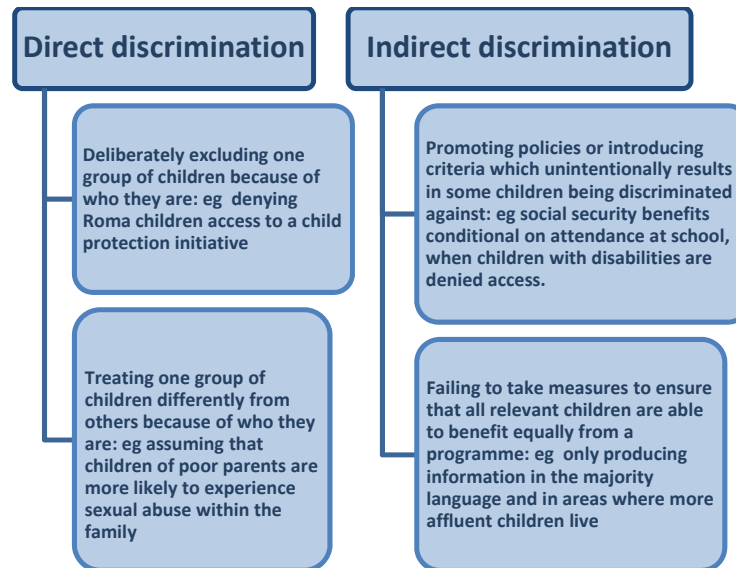
Discrimination can take place both directly and indirectly:

- **Direct discrimination** takes place when an action, activity, law or policy deliberately seeks to exclude a particular group of children. In some countries, for example, disabled children are classified as 'educable' or non-'educable', the latter being denied the right to education. The marriage age, and that of sexual consent, is often lower for girls than boys, and children born outside marriage are denied equal rights in many countries. Legislation can discriminate specifically against all children as a group – for example, laws which permit children to be subjected to assault through physical punishment, when the same assault against an adult would constitute a criminal offence.
- **Indirect discrimination** arises when an action, law or policy has the consequence of excluding or harming particular groups of children, even if that was not their intention. For example, laws that require children to wear a school uniform, bring books to school or pay school fees will discriminate against children whose parents are too poor to find the necessary money to meet these costs. A child club will discriminate against some children with disabilities if it is based in an inaccessible building, or against certain castes of children if it is located in a place where they are not permitted access.

**This does not mean that all children must be treated the same.** It is acceptable to support legitimate differences in treatment between children if these are applied in order to help them achieve equality. For example, giving blind children extra time in public examinations is a form of acceptable positive discrimination because Braille takes longer to read than printed script. However, any **differentiation between children can only be justified if it is in the child's best interests.**

Discrimination occurs at all levels of society. It can be practised by governments themselves, by adults against children, by one community against another or one group of children against another.

It can arise from active, direct and deliberate actions, or take place unconsciously through insensitivity, ignorance or indifference.



**Example:**

If a legal system requires that a witness in a court is able to visibly identify a defendant in order to be able to give evidence against them, this will discriminate indirectly against blind or partially sighted children, who are unable to meet the requirement. This could result in offenders against blind children being immune from prosecution and free to abuse them with relative impunity. Such a restriction could therefore be argued to breach the principle of 'do no harm'. Explicit and deliberate efforts within programmes are needed to ensure a commitment to both direct and indirect discrimination. During the period of Romania's accession to the European Union, the Government was required to bring an end to the discriminatory practice of placing children with disabilities in residential institutions and to promote inclusive education. Hundreds of children were suddenly transferred into mainstream schools with no support, no training for teachers, no dialogue with parents, and no resources. The outcome was that most of the children ended up at home with no schooling at all - an infinitely worse outcome than if they had been left in the residential schools.

## Why we emphasise non-discrimination

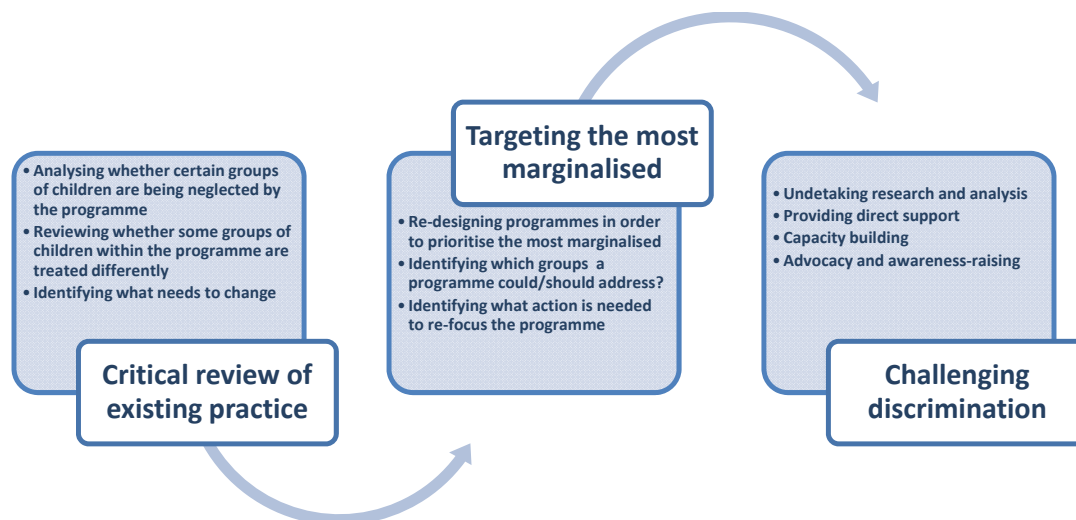
- Oak Foundation is committed to ensuring that **rights are realised equally for all children.**
- However, **many children suffer discrimination and are denied respect for their rights because of who they are.** The Committee on the Rights of the Child has identified a very wide range of children who are vulnerable to discrimination, including those not registered at birth, twins, girls, children affected by HIV/AIDS, minorities, indigenous groups, children in the juvenile justice system, in institutions or public care, children on the streets, children of unmarried parents, children with disabilities, and poor children.
- Discrimination can have a devastating impact on children's lives, **resulting in the denial of many rights.** It can render children invisible, and result in low self confidence and self-esteem, as well as acting negatively on their personal development.



- We therefore place a **high priority on working pro-actively towards overcoming these inequities** throughout our work.

## What are the implications of non-discrimination for programmes?

Most programmes will be committed to non-discrimination. However, it is important to go beyond an approach which relies on an absence of explicitly rejecting behaviours or attitudes towards any particular group of children. **Ensuring that a programme is not discriminatory requires a pro-active analysis of what it is doing, how it is doing it, and who it does and does not include.** Consideration can also be given to targeting programmes towards the most marginalised and excluded children and designing programmes explicitly to tackle discrimination.



## Critical review of existing practice

Different projects will be working with or for different groups of children. Some are generic, working with all children across a particular community. Others will focus on, for example, girls, children with disabilities, younger children, or children in institutions. A commitment to non-discrimination does not in any way undermine the legitimacy of targeted programmes. However, a critical review of practice is needed to ensure that:

- **Particular children or groups of children are never directly or indirectly excluded from a programme activity on the basis of who they are.** For example, it is entirely appropriate to run a project directed to strengthening child protection systems specifically for children with disabilities. However, it would not be acceptable to exclude, for example, indigenous children with disabilities, or children with particular impairments from those systems. If a media project was developed to raise awareness of the problem of violence against children within a given society, a commitment to non-discrimination would require a proactive approach to ensuring that the images of children represented, or participating in the initiative, reflected the whole of that society – for example, girls and boys, children with and without disabilities, children of all ages, children from different ethnic communities and from rural and urban settings.
- **All the children with whom a programme is working are treated without direct or indirect discrimination on any grounds.** For example, a project might be working directly with children to support their rehabilitation following sexual abuse or exploitation. It would be acceptable to recognise that children of different ages, or boys and girls, may have experienced abuse in different ways, or with differing impact, and to design interventions accordingly. But it would not be acceptable to assume that, for example, rape was less

serious when perpetrated against girls than boys, or against children with disabilities. This would constitute direct discrimination.

In order to help programmes adopt explicit approaches to non-discrimination, they could consider developing a non-discrimination policy to ensure that:

- The project **addresses all children relevant to its scope**. Systems are developed to ensure that children are not directly or indirectly discriminated against because of age, race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- Positive efforts will be made to **overcome the barriers to inclusion** that might be experienced by particular groups of children – for example, if the aim of the initiative is to develop effective and accessible complaints procedures for children experiencing violence or abuse, consideration is given to how all children can access those procedures including children with disabilities, children who don't speak the majority language, and children in institutions.
- Staff are sensitised to the non-discrimination policy and **provided with training or support** in its implementation
- A commitment to non-discrimination is made explicit in all publications and communications produced by the programme
- In programmes working directly with children, **confidential and accessible complaints or reporting systems** are in place for children to use if they experience discrimination

### Targeting the most marginalised

It is always easiest to reach the children who are least discriminated against – children in urban communities, children in school, those who can communicate in the majority language. However, it is the **most marginalized children who suffer the greatest rights violations** and who are in the greatest need of support. Programmes therefore need to consider designing initiatives that will specifically reach out to those children who are excluded from the mainstream. For example, many national helplines for children who have been abused are inaccessible for children with disabilities who are deaf, have intellectual disabilities or experience communication or mobility barriers. Yet the evidence shows that this group of children are disproportionately vulnerable to violence and sexual abuse. Efforts therefore could be given to **investing in targeted services designed to provide them with access to such services**.

#### **Oak is supporting programmes in Bulgaria targeting the most vulnerable children**

A programme in Bulgaria is responding to the need for a continued focus on prevention and early interventions against child abuse at national level, especially with hard-to-reach and marginalised groups. This includes Roma children, rural children, children of migrant workers, young care leavers and street children. Family and community strengthening programmes create life opportunities for young people and children and encourage them to become equal participants in finding solutions for themselves.

A programme in Sofia is working to reduce the vulnerability of children to abuse, neglect, homelessness and abandonment in three Roma communities by developing a comprehensive community-based model to encourage and support families and improve access to social and health services and schools. The model will be based on the experience of Bulgarian and UK organisations and will combine the efforts of professionals, families and children. It will assess the individual needs of children and parents, plan concrete steps, provide assistance and evaluate the changes in their lives.

### Programmes to address discrimination

Programmes might be designed specifically to address discrimination experienced by particular groups of children. This could be achieved through a focus on, for example:

- **Research and analysis:** There is, commonly, a lack of knowledge or understanding about the nature and extent of discrimination being experienced by particular groups of children. Without such information, it is not possible to design appropriate strategies, mechanisms and policies to realise their rights. For example, although a great deal of information has been gathered about the behaviour and activities of children and young people using ICTs<sup>6</sup>, and how this places them at risk of sexual exploitation and abuse, there is currently no information available about how or whether children with disabilities are at greater risk of harm in these environments. Research and analysis into the lives of marginalised children is needed in order to tackle discrimination effectively.
- **Direct support:** Programmes may decide to focus on direct support to groups of children to seek to address discrimination, through, for example, service delivery or provision of material assistance. Consistent with a child rights-based approach, such projects should be designed to provide create knowledge, pilot approaches that can be scaled up, and develop methods that can be used in advocacy work to tackle discrimination
- **Capacity building:** Programmes might invest in working with partners, media, NGOs, and government officials, as well as children and their families to raise awareness of the right to non-discrimination and how it can be implemented. Advocacy may be needed to make the case for training for all professionals working with children to help them understand the principle of non-discrimination, and its application in practice.
- **Advocacy and awareness raising:** Where discrimination exists against particular groups of children, programmes may undertake campaigns to sensitise governments, communities, or families to challenge these attitudes and behaviours. Such campaigns can build on research and analysis findings to understand the nature of the problem and use the experience gained in direct support projects to demonstrate possibilities for change.

#### Sources of information on non-discrimination

- Committee On Economic, Social And Cultural Rights, *General Comment No. 20, Non-Discrimination In Economic, Social And Cultural Rights (Art. 2, Para. 2, Of The International Covenant On Economic, Social And Cultural Rights)*, E/C.12/GC/20, July 2009
- General Comment No. 18: Non-discrimination: 11/10/1989, CCPR General Comment No. 18.*
- Sheahan F (2008) *Translating the Right to Non-Discrimination into Reality*, Save the Children Sweden
- Hodgkin R and Newell P, (2007) *Implementation Handbook on the Convention on the Rights of the Child*, UNICEF, 2007, New York

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<sup>6</sup> Information, Communication Technologies

## 4 Principle Four: Best interests of the child

The Child Abuse programme recognises that in all decisions impacting children, their best interests should be a primary consideration. This applies at two levels. First, decisions and actions affecting an individual child should reflect his or her unique circumstances, second, all actions and decisions – whether legislative, administrative or programmatic – that impact all children or a specific group of children, must consider their collective interests.

### Understanding the principle

The concept of the *'best interests of the child'* is a central building block at the heart of the CRC, which, if effectively implemented, would profoundly enhance the status and well being of children in countries throughout the world. The key article elaborating its importance is Article 3, which states that the best interests of the child must be *'a primary consideration'* in all actions concerning the child. However, the principle is referenced in many other articles, for example:

- children should never be separated from parents unless this is in their best interests (Article 9);
- the best interests of children should be parents' basic concern (Article 18);
- any placement for adoption must ensure that the best interests of the child is the paramount consideration (Article 21);
- children should only be placed with adults in custody unless not in the child's best interests to do so (Article 37);
- parents must be present in penal proceedings unless not in the best interests of the child (Article 40).

It is important to understand the weight that the best interests of children must be given. Article 3 requires that it is *'a primary'* consideration. This wording recognises that other interests can be considered, and reflects that fact that the scope of the article is extremely wide, covering *'all actions concerning the child'*. This necessitates recognition of other interests, for example, when designing a new housing development, children's best interests must be considered and taken into account, but so, too must those of, for example, older people or people with disabilities. In the other articles in the CRC, which focus more narrowly on specific actions affecting children, the bar is raised: Article 18, for example, states that the child's best interests will be parents *'basic concern'*, and in the context of adoption, the child's best interests are the *'paramount consideration'*.

The Committee on the Rights of the Child has interpreted Article 3 as **applying both to children as individuals and as a constituency**. In other words, it applies when decisions are being made or actions taken, for example, in relation to a child's health care, education, placement or adoption. It also applies to actions affecting groups of children – for example, policies on education or transport.

**This broad-ranging interpretation is a radical new approach.** The best interests' principle is embedded in the child welfare legislation in many countries. However, its extension to **all** actions concerning children, and not just those of the state but also those taken by relevant private institutions, is a major extension of the obligations to children. And as with Articles 2 and 12, the Committee on the Rights of the Child has determined that Article 3 is a general principle that must be applied in the realisation of all other rights. In other words, it must be a constant reference point to guide all decision-making.

## Why we emphasise the best interests of the child

- The core objective of Oak Foundation's child abuse programme is to **promote children's rights and wellbeing**. Placing a high priority on promoting the best interests of children is a key strategy in achieving that goal.
- Traditionally, because children, in most societies, have had few rights, no power, no voice, and **relative invisibility as citizens**, their interests tend to be disregarded in the public policy sphere in favour of those of more powerful interest groups. It is not necessarily the case that children's welfare is deliberately disregarded, but rather that children, and the impact of public policy on their lives, are often not visible in decision-making forums and, accordingly, never reach the top of the political agenda.
- We are committed to challenging that invisibility and through consistent application of the best interests' principle, seek to ensure for children a **far higher priority in political, social, economic and protection policy making**.

## Implications of the best interests of the child for programmes

Most programmes would undoubtedly agree with the proposition that the best interests of the children should be a primary or paramount consideration, depending on context. And most would claim to embody the principle in all their work. But the reality is that the concept is highly problematic and challenging to implement.

The term '**best interests**' broadly describes the well-being of a child. That well-being will be determined by a wide range of circumstances, such as the age, the level of maturity of the child, the role of the family, social and cultural norms and expectations, as well as the child's individual history and experiences. Most adults will defend their actions towards children on the basis that they are in those children's best interests. However, within any group of adults, and particularly across different cultures, the understanding of what is in a child's best interests will inevitably differ widely. Therefore, **it cannot be assumed that a child's best interests are an objective fact**. Furthermore, there may be tension between what is seen to be in the best interests of the child in the immediate term, as contrasted with his or her longer term interests. And, sometimes, the best interests of an individual child may conflict with that of a wider group of children. Overall, therefore, its application and interpretation is far from straightforward. Notwithstanding, it is often employed uncritically as a worthy and caring concept, automatically resulting in the well being of children.

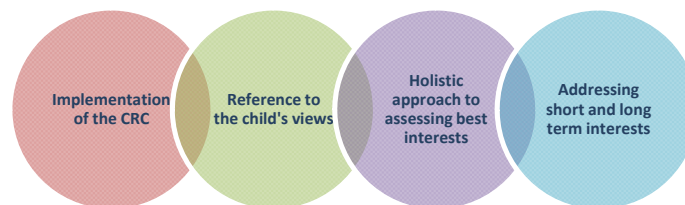
Despite these limitations, the concept of the **best interests of the child is an important principle**, demanding a continued focus on the child, and a need afford him or her priority. And it is possible to move beyond woolly and vague expressions of general good to apply a more rigorous analysis to the implications and meaning of the best interests of the child. While it can never be possible to offer prescriptive definitions which apply universally to every child in every context, it is possible to bring a series of considerations to bear when determining best interests, in particular:

- How to assess the best interests of the child
- How to balance competing interests

It is not always easy to determine whether actions or programmes are in the best interests of a child or group of children: For example, there is overwhelming evidence that institutional care is harmful for children's optimal development, health and welfare. There is also evidence of widespread physical and sexual abuse of children in institutions. However, the goal of closing institutions is likely to take a very long time in most countries. Meanwhile, it is rare for there to be an independent inspectorate, safe, accessible and effective reporting or complaints mechanisms for children, or opportunities for children to feed into policy concerning the management, quality and standards of institutional care. Without these mechanisms, children remain vulnerable to continued violence and abuse. Should NGOs, therefore, invest in advocating for such mechanisms to be introduced to ensure greater protection of children currently in institutional care? Or will so doing simply serve to perpetuate an unacceptable and damaging system and divert attention and resources from the longer term need to invest in community-based resources to support alternative forms of care? Should the interests of children now take precedence over the best interests of a larger group of children in the long term? Is it possible to reconcile the interests of children now and in the future?

## How to assess best interests of the child

There are four key and interlinked dimensions to take into account when determining the best interests of a child or children.



- Implementation of the CRC:** Clearly, the overall goal of the CRC is to promote children's best interests. The starting point in defining the best interests of the child, therefore, must be the **application of all the rights in the Convention**. For example, it can be argued that it is in children's best interests to live with their family, to be educated, to be heard in matters affecting him or her, to have the opportunity for play. Conversely, the Convention makes clear what is not in children's best interests, including: exposure to all forms of violence, sexual and economic exploitation, harmful traditional practices, and discriminatory laws, policies and practices. A programme or project can ensure that it is designed to promote children's best interests by **establishing aims and objectives, as well as benchmarks for achieving them, which are clearly consistent with the rights embodied in the CRC**.
- Reference to the child's views:** Determination of a child's best interests must take account of the **perspectives of the child him or herself**, where the child is of sufficient age and maturity to form views. Too often, adults decide what is best for a child without any reference to the child's experience and concerns, for example, courts making decisions about where a child should live following parental divorce. However, unless they listen to the child and find out how she or he feels, what matters to them and the implications of any decision made, it is not possible to determine what is in that child's best interests. This does not mean that whatever the child says must be acted on. There may, for example, be clear evidence that pursuing the child's wishes would be detrimental to their well being – for example, when a child wants to remain living with an abusive parent. However, it does mean that **any decision or action should be informed by what the child thinks and take serious account of it**.
- A holistic approach addressing the best interests:** Determining the best interests of the child necessitates a holistic approach which **takes account of all rights in the CRC**. For example, if a court is determining what action to take in respect of a child who has been

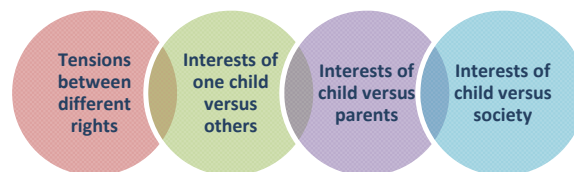
abused, it must give consideration to a future plan which most effectively ensures that all rights are being realised. It is not enough to remove the child from harm in order to provide protection. Addressing the best interests of the child will require that consideration is also given to the child's rights to contact with family, education, an adequate standard of living, friendships, and rehabilitative care. Responses to individual children as well as broader child protection systems need to reflect this holistic approach.

- **Addressing short and long term interests:** Consideration must always be given to both short and long term best interests of the child. For example, where a parent has neglected or abused a child, it may appear in the immediate term that separation is in the child's best interests. However, over the longer term, cutting a child off from his parent may serve to isolate him from the wider family, impacting negatively on his development, and denying him access to social, emotional, financial and practical support. Consideration of the child's best interests needs to take account of the wider context. Provision of supported contact, which both protects the child and maintains the emotional bond, may be a better solution.

Adults may have very different perceptions of what is in the best interests of children from those children themselves - it is not always the case that adults know best. For example, a study of children's participation in child protection processes in the UK, found evidence that the extent of protection offered by professionals exceeded what the children felt they needed<sup>7</sup>. A series of vignettes, exploring situations where a decision needed to be made about whether a child should be present at a case conference, were presented to groups of professionals, and then to groups of children who had direct experience of the child protection system. It was consistently found that the children felt they had a greater capacity to deal with the situation than the adults gave them credit for. Furthermore, they argued that exclusion from these processes was harmful because it leads to anxieties about what is being said or done behind their backs. Adults' assumptions that it was in the children's best interests to protect them from access to painful information meant that children were excluded from decision-making processes in which they felt they had the right and capacity to participate.

## How to balance competing interests

Tensions can arise between different rights, and between the best interests of a particular child and that of other children, of parents and of the wider society. No easy answers can be provided when there are legitimate competing claims: it is a case of sensitively assessing and comparing degrees of benefit and harm. However, consideration of the following perspectives might be helpful both in relation to work involving individual children and in programmes to develop services, policies or systems to strengthen child protection:



- **Balancing different rights:** Situations can arise when **certain rights appear to conflict**. For example, parents of children in developing countries may argue that it is in a child's best interests to work in order to ensure the economic survival of the family, and that the right to

<sup>7</sup> Marshall, K., *Children's Rights in the Balance – The Participation-Protection Debate*, The Stationery Office, Edinburgh, 1997.

an adequate standard of living must take precedence over the child's right to education. However, hazardous work cannot be in the child's best interests, nor can denial of the right to education. A solution in the child's best interests, therefore, would necessitate a strategy to limit their exposure to harmful work, to strengthen social protection systems, to explore a more flexible approach to providing education which in the short term accommodates the economic realities facing the child, and takes account of the child's perspectives. The value of maintaining a commitment to the **best interests of the child is that it provides an overriding principle** to help determine how to reconcile the tension, and ensure the optimal realisation of children's rights.

- **Balancing the interests of one child against others:** Situations will arise when the pursuit of the **best interests of one child or a group of children may not be in the interests of other children**, and vice versa. For example, the police might want to infiltrate an internet paedophile ring to gain access to the details of its members. To do so successfully, and to gain their trust, it might be considered necessary to participate by, for example, creating or posting child abuse images. In other words, in order to pursue the wider goal of catching perpetrators who are engaged in abusing large numbers of children, the short term abuse of some children is considered necessary. There is an inevitable conflict here. However, while it is clearly important to prosecute offenders, thus promoting the best interests of future children who may be harmed, **it can never be acceptable to place other children at risk**, or to abuse them in order to achieve that outcome.
- **Balancing the interests of children versus parents:** Most parents will have their children's best interests at heart. However, it cannot be assumed that this will always be the case. There are times when **the interests of children and parents can be in conflict**. For example, a parent may wish to have a child with a disability sterilised in order to avoid the inconvenience of managing the consequences of menstruation, thus requiring the child to undergo major and painful surgery and denying them the future right to have children. Although the CRC fully recognises the importance of parents in children's lives, and respects their rights and responsibilities towards their children, it also stresses that children have rights and that **it cannot simply be assumed that parents will always act in the best interests of children**. Where children's rights are in any way placed in jeopardy by their parents, the best interests of the child must always come first, for example, where parents abuse or neglect their children, or discriminate against girls. Programmes and projects need to ensure that this principle underpins all services, policies or laws which they are developing, supporting or advocating.
- **Balancing the interests of children versus the wider society:** It is sometimes proposed that the interests of the community or the society must take precedence over those of an individual child, for example, where the **maintenance of traditional cultures is seen to be more important than the rights of an individual child** who may be harmed within that culture. However, these arguments cannot be used to override the rights in CRC. Nor can it be argued that children's best interests are served by cultural practices which deny rights that are now guaranteed under the CRC. For example, it is not acceptable to claim that because a particular culture has always beaten children to instil discipline, their best interests are served by its continuation. Similarly, female genital mutilation cannot be defended as a traditional practice serving girls' best interests by enhancing their marriage prospects, or maintaining the values of the wider community. It clearly represents a rights violation, and is contrary to the child's interests in terms of health, survival, emotional wellbeing, dignity, and protection from violence and harm. A **commitment to the best interests of the child demands that programmes and projects adopt explicit policies to**



**protect and promote the rights of children above those of their communities when those rights are in conflict.** Of course, the way in which this is done needs to be sensitive to the concerns of that community and, wherever possible, explore approaches which can be accepted by all its members.

**Sources of information on best interests**

- Hammarberg T and Holmberg B, (2000) *The best interests of the child: the principle and process*, in *Children's rights, Turning principles into Practice*, Save the Children Sweden
- UNHCR *Guidelines on Determining the Best Interests of the Child*, May 2008, Geneva
- Freeman MD, *The best interests of the child? Is The Best Interests of the Child in the best interests of the children?*, Ashgate, 1999
- Hodgkin R and Newell P, *Implementation Handbook on the Convention on the Rights of the Child*, UNICEF, 2007, New York

## 5 Principle Five: Respecting and building on strengths

The Child Abuse programme recognises that children, families and communities have strengths and capacities that should inform and orient interventions. An understanding of their social context and positive traditional practices may provide effective, sustainable options and opportunities for protecting children

### Understanding the principle

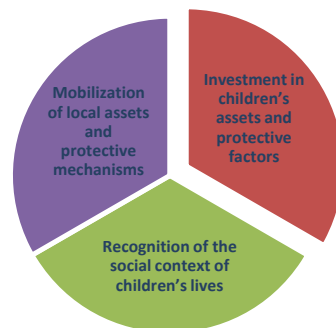
An approach based on respecting and building on strengths is rooted in the belief that children, families and communities have competencies and resources that can be utilised to identify and address their own concerns. It involves adopting an approach which seeks to focus work on developing what is desired, rather than preventing or treating that which is undesired. The process involves mapping the assets, opportunities and capacities which can be brought to bear to promote the realisation of children's rights, as well as identifying gaps in accountability to the realisation of these rights. The strengths and capacities of children, their communities, and culture can be mobilised to understand the reality of children's lives, and to use that understanding to create sustainable interventions that bridge the gap between children's lived experiences and systemic structures and government policies.

### Why we emphasise respecting and building on strengths

- Historically, governments and civil society agencies have tended to focus interventions on **problems or challenges**, emphasizing deficits and violations, rather than the strengths, opportunities and contributions that children, families and communities bring. In other words, they often describe children and their lives in terms of problems to be resolved. And by responding only to the problems once they occur, it is often too late and certainly more costly to deal with the consequences.
- This way of approaching children's lives often results in programmes aimed primarily at changing children's, families' or communities' problematic responses or behaviours to particular situations. The implicit **negative emphasis can communicate a sense of failure and helplessness**, reinforce low expectations, create dependency on outside resources and agency-created solutions, and discourage individuals and communities from moving in the direction of positive outcomes. Such approaches tend to be top down, designed by professionals, policy makers or politicians, and fail to capitalise on the contributions that can be made by children, families and communities to an understanding of their situation and the strategies that can be brought to bear on improving their lives.
- We both believe in principle, and are convinced by the available evidence, that **lives are more likely to be improved when local communities build on their local strengths and assets** – for example, internal assets or individual capacities that help to support and protect children, contributing to their resiliency; protective mechanisms or enabling factors that exist within children's external environment; levels of love and support from their family, and whether they receive support from other non-parent adults, or whether cultural activities help foster a sense of belonging and self-determination. It is **committed to promoting recognition of children as rights holders and resourceful agents** entitled to play a key role in finding and creating solutions.

## Implications of respecting and building on strengths for programmes

A strength-based approach, rooted in children's own social context, and building on positive traditional practice, has a number of key implications for the way in which programmes operate. Consistent with a child rights-based approach described earlier, it involves a focus on listening to children, families and communities about their experiences of their lives. Key dimensions of respecting and building on strengths are:



### Investment in children's assets and protective factors

Children have considerable strengths, skills and knowledge with which to play an active role in analysing their lives and constructing solutions. For children living and working on the streets, for example, **solidarity with others in a similar situation can provide a major source of strength**, protection and belonging, which may not be recognised by adults, who are more likely to perceive only the risks and vulnerability in the young person's life. Not only is it **essential to value and acknowledge children's own perceptions of their lives**, but investment is also needed to build opportunities and space for them to explore and recognize the strengths and assets they bring towards managing their day to day realities. **Greater skills, assets and opportunities provide protection and enhance participation**. Greater participation contributes to the development of skills and capacities, and enables protection. Protected children are more likely to participate, develop their capacities and take advantage of available opportunities.

#### Respecting and building strengths among young refugees in Jordan<sup>8</sup>

This approach is well illustrated in a Jordanian project among child refugees from Iraq which sought to discover what were the challenges to well-being facing them, what coping strategies they were using to respond to these challenges, and what positive coping mechanisms or strengths of Iraqi children and their families could be encouraged and built upon in developing and improving programming interventions. The challenges included deaths of parents, missing relatives, as well as losses in virtually every area of their lives: peer and family networks, places of worship, financial security, and gardens and recreational opportunities. Many children also identified parental depression, restrictions on movement, and friendships and educational difficulties. In response, the children identified a range of coping strategies including spending time with families, contributing economically if possible, participating in centre activities, trying to integrate into Jordanian life, being optimistic about the future, patriotism about Iraq, helping others, engaging in problem solving, and building and maintaining relations with friends and family. The project clearly showed that the children were proactive in trying to solve their problems. They identified a range of both positive and negative coping mechanisms that they employed to respond to the challenges they face.

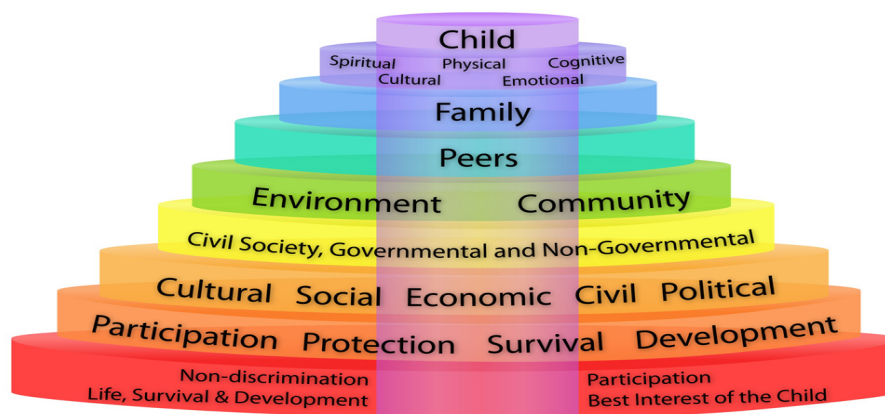
<sup>8</sup> Nelems M (2008) The Unity Circle Project: Experiences of Iraqi Children and Parents living in Amman, Jordan Save the Children/UNICEF/IICRD/RI

## Recognition of the context of children's lives

Promoting an assets-based approach necessarily requires a commitment to understanding that **children do not live in isolation**: they can be part of an immediate and extended family, students at school, members of social organisations, residents of local communities, and citizens of their country. This understanding of children in the wider context of the social systems that surround them can be described as a child rights ecology. It recognizes the **many integrated and contextualised factors that contribute to the realisation or lack of realisation of the rights** of each child by placing the child at the centre of a series of circles representing the factors and systems that influence, and are influenced by, the holistic development of the child. Similarly, the child rights ecology demonstrates how the child contributes to his or her social reality, while simultaneously being affected and served by it, highlighting the interconnectedness of child development and societal well-being.

No approach to promoting child development, protection and participation can succeed without an **awareness of the daily environment in which children are living**, recognition of the strengths and weaknesses of that environment, investment in working with families and communities to enlist their capacities to build supportive, protective and respectful environments for children. All programming must be undertaken with a view to **working with children within families and communities**. The child rights ecology needs to inform both the design and implementation of programmes, as it facilitates a better understanding of both the influences on children and where the responsibilities lie. This analysis will help in identifying entry points through which to engage children and their communities in discussions on appropriate child protection strategies.

### A child rights ecology



### 3 Mobilization of local assets and protective mechanisms

Children's development, protection and participation will be best achieved by **mobilising the strengths, commitments and motivations of children's own families and local communities**. Instead of relying exclusively on solutions from outside, a strengths-based approach focuses on supporting local communities to reflect on their own cultural values, spiritual beliefs and practices which can be brought to bear to afford greater protection for children. This requires a **shift from a focus only on the weaknesses or harmful aspects of any traditional culture**. It enables the building of the development of strategies that are culturally relevant and sensitive, and rooted in the perspectives of children and young people themselves as well as those of the adults who have responsibility for them.

An illustration of such an approach is the Circle of Care model in which responsible adults at relevant levels of the child rights ecology build a circle of care around children to explore local solutions to problems within communities and between members of those communities.

#### **Mobilising local assets in South Africa<sup>9</sup>**

The Circle of Care approach was employed in South Africa to explore, with children and elders, the impact of change wrought by the HIV/AIDS pandemic, and approaches to addressing the problems they faced. The findings are revealing, and would not have been possible from any external analysis of the situation. While both adults and children shared a surprisingly similar perception of the extent to which pandemic had served to weaken traditional supports for children, they identified different risks in cultural practices and strengths to draw on to counteract the challenges.

The children saw the risks as lying in the intolerance of Elders to discussing safe sex and HIV/AIDS, the overall negative community attitudes towards young people, dangerous initiation practices, lack of opportunity for dialogue across generations and the politicization of culture. However, they felt that the potential strengths lay in cultural practices which could offer young people a sense of pride and identity, spiritual connections with ancestors to reinforce families and communities under stress and a culture which teaches safe sex. On the other hand, the Elders felt that their role had been marginalised by government and modern notions of human rights and democracy: they felt that schools reduced children's responsibilities and downgraded Elders' authority, that mothers, who are more likely to be head of households, no longer seek advice from them, that young people no longer sought guidance before marriage, and that the strategies for dealing with HIV/AIDSs had failed to acknowledge the role of the leaders and undermined and excluded them.

The opportunity for both groups to hear each others' perspectives created a space where joint consideration could be given to the construction of initiatives to address the community challenges. It led to the creation of, for example, feeding centres run by the community leaders, cultural monitoring mechanisms to ensure safe initiation practices, and youth led cultural groups to strengthen cultural identity and social connections between elders and young people.

#### **Sources of information on respecting and building on strengths**

- Cook P, Bissell S, Boyden J, Myers W, Rethinking Child Protection from a Rights Perspective: Some Observations for Discussion, [http://www.iicrd.org/resources/research\\_reports/ICPRC1](http://www.iicrd.org/resources/research_reports/ICPRC1)
- Cook P and White W, Risk, Recovery and Resilience: Helping Young and Old Move together to Support South African Communities Affected by HIV/AIDS, Journal of Intergenerational Relationships, Vol4, no1, 2006, Haworth Press,
- Nelems M (2008) The Unity Circle Project: Experiences of Iraqi Children and Parents living in Amman, Jordan, Save the Children/UNICEF/IICRD/RI

<sup>9</sup> Cook P and White W, Risk, Recovery and Resilience: Helping Young and Old Move together to Support South African Communities Affected by HIV/AIDS, Journal of Intergenerational Relationships, Vol4, no1, 2006, Haworth Press,

## 6 Principle Six: Do no harm

Our work and the work we support may have unintended and unexpected results. These can be positive or negative. The design, monitoring and evaluation should be explicitly designed to take account of both, and support the revision or reorientation of interventions if indicated.

### Understanding the principle

‘Do no harm’ is a fundamental principle deriving from Hippocrates who articulated the maxim *‘As to diseases, make a habit of two things— to help, or at least do no harm,’* and it forms the basis of the Hippocratic oath which all doctors are required to swear. Basically, it means that where there is an existing problem, it may be better not to do something, or even to do nothing, than to risk causing more harm than good. It requires that doctors and other health care providers must always consider the possibility that an intervention, however well-intentioned, may cause harm. The principle needs to be applied when deciding on the use of an intervention that carries an obvious risk of harm, but a less certain chance of benefit.

The principle has equal relevance for programming in the development field, and needs to inform the thinking underpinning all interventions. It is implicitly acknowledged in the CRC, not only through the obligation to promote the best interests of children, but also in the right of children to survival and optimum development.

### Why we emphasise ‘do no harm’

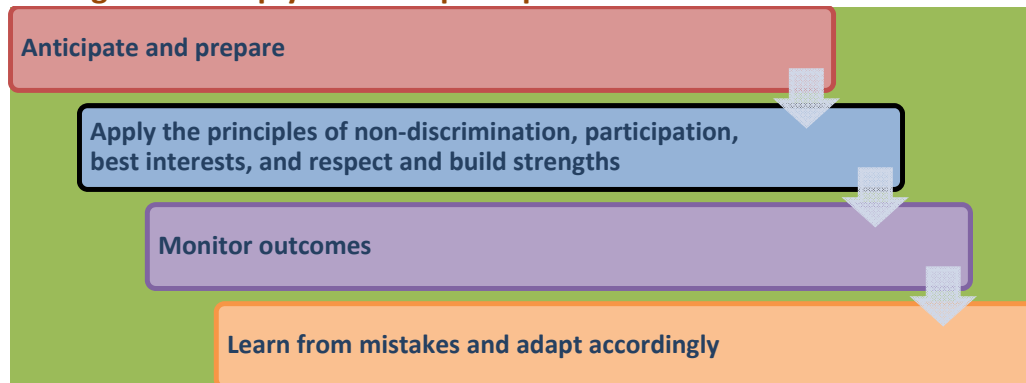
- As outlined throughout this paper, Oak Foundation seeks to use its resources to promote the rights and well being of children and promote their protection.
- However, it is fully aware that **interventions or decisions** made by donors, as well as policy makers and development agencies, about how they invest in programmes, **can have unintended or negative consequences**. In other words, their actions can potentially serve to harm rather than enhance children’s situation. There are examples throughout the world of well-intentioned initiatives that have had the opposite results than those intended: placing vulnerable children in institutions where they are then subjected to physical and sexual abuse; programmes teaching children that they have rights, exposing them to a backlash from their parents and local communities; research into children’s lives raising expectations for change, but then offering no feedback or action, resulting in disillusionment as to the benefits of both research and participation.
- We acknowledge these risks and seek to ensure that programmes we fund are **alert to the importance of taking every possible measure to ‘do no harm’**. At the same time we are committed to transparency and integrity in our work, and wish to promote the maximum possible learning from the experience of programmes. We therefore encourage **a willingness to be open about outcomes that do not result in benefit to children**, in order that lessons can be learned and applied, and repeated failures avoided.

### Implications of ‘do no harm’ for programmes

Every project and programme funded by the Foundation believes that its actions will lead to greater protection for children: that is their very *raison d’être*. It can be difficult therefore to acknowledge that the desired outcomes have not been achieved, or, worse, that they have actually led to deterioration in the lives of the children concerned. However, the reality is that any intervention can have different outcomes to those that were intended. Programmes need to be alert to that risk and

take all possible action to anticipate and avoid it. They need to introduce measures to monitor that risk throughout the life cycle of a programme, and adjust or adapt the work accordingly.

### Strategies to comply with the principle 'Do No Harm'



### Anticipate and prepare

From the outset of any programme, when determining the aims and objectives, it is important to **reflect on all possible consequences that might arise, including negative outcomes**. For example, the introduction of a reporting and complaints mechanism for children, who have been physically or sexually abused in institutions, may expose those children to negative retribution from staff concerned. Once these possibilities have been identified, not only can staff be sensitised to be alert to them and seek to build in measures to address them, but they can also be built into the monitoring and evaluation process. This enhances the potential for measuring and assessing any evidence of negative change or harm as one of the outcomes of the programme. It is also important to **promote a culture of willingness to accept the possibility that interventions may cause harm** as well as good, and of confidence in recognising and acknowledging any such harmful outcomes.

#### The Six Lessons from a Do No Harm Project<sup>10</sup>

- 1 Whenever an intervention of any sort enters a context, it becomes part of the context.** No intervention is seen as neutral by people in the context.
- 2 All contexts are characterized by factors that divide and those that connect**
  - A divider is a factor that causes difficulties, creates conflict, divides people
  - A connectors is a factor that serves to unite, overcome challenges, bind communities,These factors need to be analysed to help identify how to anticipate challenges and to utilise strengths that can be brought to bear to overcome them
- 3 All interventions interact with both dividers and connectors.** They can either make them worse or make them better.
- 4 Actions and behaviours have consequences.** All interventions consist of both actions and behaviours
  - Actions reflect effects of resources being brought by an organization into a context.
  - Behaviour reflects the conduct of the people bringing the resources.
- 5 The details of interventions matter.** The details are where the impacts come from, not the whole. By analyzing the details of an intervention, we can determine how actions and behaviours are having an impact on the context.
- 6 There are always options.** Options grow out of understanding our actions and behaviours.

### Apply the core principles

Adherence to the four core principles will facilitate an approach that, at a minimum, commits to doing no harm, but hopefully extends beyond that, to positively doing good:

<sup>10</sup> Collaborative Learning Project,  
[http://www.cdainc.com/cdawww/project\\_profile.php?pid=DNH&pname=Do%20No%20Harm](http://www.cdainc.com/cdawww/project_profile.php?pid=DNH&pname=Do%20No%20Harm)

- **Child participation:** Listening to children will help programmes have a better understanding of the nature of those children’s lives, their behaviours, environments and the risks to which they are exposed. This will help the design and implementation of initiatives which take account of those risks and include measures to mitigate against them.

**Illustrative examples**

Concern during the 1990s over child workers in carpet factories in Bangladesh led to the introduction of legislation in the US prohibiting import of carpets from factories employing young children. Intended as a measure to afford children greater protection from exploitation, the outcome for the children, who were thrown out of their jobs by the factory owners, was a resort to more dangerous and risky forms of employment on the streets. The impassioned response of the children concerned was the policy makers should have talked and listened to them first.

Many efforts have been made to 'rescue' child soldiers; some girls involved in those processes have argued that, in fact, their lives, once recruited, had improved, as they were offered greater autonomy, opportunities for education, and a sense of responsibility and self worth, all of which had been denied them within their own communities. For these girls, imposed actions to reintegrate them with their families and villages, without taking on board their perspectives and experiences, and exploring measures to address them, may well cause them greater harm than leaving them where they are.

- **Non-discrimination:** Clearly any action which explicitly discriminates against a child or group of children is inconsistent with the maxim 'do no harm'. Furthermore, initiatives designed to address discrimination also need to be carefully planned to ensure that they do not exacerbate the very problem they are seeking to tackle.

**Illustrative examples**

If a legal system requires that a witness in a court is able to visibly identify a defendant in order to be able to give evidence against them, this will discriminate indirectly against blind or partially sighted children, who are unable to meet the requirement. This could result in offenders against blind children being immune from prosecution and free to abuse them with relative impunity. Such a restriction could therefore be argued to breach the principle of 'do no harm'. Explicit and deliberate efforts within programmes are needed to ensure a commitment to both direct and indirect discrimination.

During the period of Romania's accession to the European Union, the Government was required to bring an end to the discriminatory practice of placing children with disabilities in residential institutions and to promote inclusive education. Hundreds of children were suddenly transferred into mainstream schools with no support, no training for teachers, no dialogue with parents, and no resources. The outcome was that most of the children ended up at home with no schooling at all - an infinitely worse outcome than if they had been left in the residential schools.

- **Best interests:** The commitment to promoting the best interests of the child needs to be a continual mediating principle applied to determine whether the actions of programmes are likely to breach the commitment to 'do no harm'.



#### **Illustrative examples**

An initiative promoting sexual and reproductive health rights for young people is likely to be committed to ensuring that both girls and boys have equal access to counselling, advice and services. Such an approach would be seen as consistent with the commitment to children's rights, to non-discrimination, and to the best interests of the young people concerned in terms of their health, development and protection. However, where such a programme is being developed in a deeply conservative community, a service offered on an equitable basis may be seen as offensive and threatening, and indeed, young girls may be subjected to punishment, potentially extending to extreme violence, as a consequence of participating. The 'do no harm' principle would require that these risks are fully taken on board. The best interests of the girls concerned need to be understood in respect of all their rights, including the right to protection from all forms of violence, and the right to life as well as those rights being promoted by the programme. This does not mean that efforts to provide sexual and reproductive health services should be abandoned for girls, but that when designing the programme, the cultural context is taken on board and efforts made to understand and address parental concerns.

- **Respecting and building on strengths:** Over the years, many development programmes have entered communities from outside with proposals to improve, for example, health care, education, or levels of violence. Too many have not only failed but have actually damaged those individuals or communities they were intended to help. The issues can be complex, as in the examples described above. However, in all cases, working with the assets within communities, and building on the strengths both of children and their families, will play a crucial part in both alerting programmes to potential risks and to mitigating or mediating potential harm.

### **Monitor outcomes**

Throughout the course of a programme, it is essential not only to monitor whether the work being undertaken is on track to achieve the overall aims and objectives, but to monitor any unintended or negative outcomes emerging. It is important therefore to include negative benchmarks or indicators alongside the positive aspirations of the programme. This will involve efforts to collect data on those potentially harmful outcomes.

#### **Illustrative example**

An initiative might be established to support a child protection system which involved mandatory reporting for all professionals, together with the creation of an integrated child protection register. Possible downsides might be that children felt there was no-one to talk to confidentially, that the idea of their stories being shared among other professionals felt like further abuse, that they would no longer talk to professionals about abuse in case the information was reported to other officials, thus reducing the level of support available to them. Investment would need to be made in collecting information on these potential outcomes as well as charting progress in establishing the policy and the child protection register. Data might, for example be collected on numbers of children reporting abuse, focus groups or surveys on children's experiences of the new systems, and actual outcomes for children who are registered.

### **Learn from mistakes**

Ultimately, there has to be a preparedness to recognise if the programme is actually resulting in more harm to children than good. Depending on the nature of the problems arising, this might involve investment of additional resources, more time spent with local communities, recognising that a longer time frame is needed to achieve the programme goals, or it may involve a complete re-think of the initiative itself. This in itself can have positive implications. The consequent lessons can be shared with other programmes in order to provide broader learning from the process and ensure that others can build on that experience and minimise the risks of repeating the same problems.

**Sources of information on 'do no harm'**

- American Association of Paediatrics Policy Statement on Health Equity and Child Rights, 2010
- Development assistance and humanitarian aid in conflict,  
[http://www.cdainc.com/cdawww/project\\_profile.php?pid=DNH&pname=Do%20No%20Harm](http://www.cdainc.com/cdawww/project_profile.php?pid=DNH&pname=Do%20No%20Harm)
- Anderson M B (1999) Do no harm: how aid can support peace--or war, Lynne Rienner Publishers

## Appendix One

### An approach to monitoring and evaluating implementation of the six principles

All programmes will have systems in place to monitor and evaluate progress in achieving their objectives. While we are not imposing a template for compliance with and integration of these six principles, these principles are important for us and for other organisations whose work impacts children. To encourage a more explicit consideration of and integration of these principles as programmes are designed and implemented, we suggest that it is important to consider them explicitly as part of the monitoring and evaluation processes. This would help provide information on how they are currently informing the work, and track efforts to strengthen their integration and provide data on how this changes the work. **Setting objectives** - Objectives should always be focused on the realisation of children's rights, rather than just activities. They should involve taking into account these principles: participatory, non-discriminatory, promoting the best interests of the child, strength based and doing no harm. These approaches are consistent with a child rights-based approach to programming which is rooted in a commitment to empowering children, families and communities to hold governments to account on their obligations to children.

- **Establishing indicators or benchmarks** – Indicators or benchmarks for the programme need to be developed to help measure whether or not the objectives of the project in realising children's rights have been achieved. These **outcome indicators** need to address both positive and negative outcomes, in order to ensure that any potential harm being caused by the programme is explicitly monitored. They might include indicators or benchmarks which demonstrate:
  - **Changes to systems or structures** – for example, legislation to ban physical punishment or child sensitive measures in court procedures;
  - **Changes within communities or families** – for example, more schools adopt policies to support positive discipline and non-violent conflict resolution, families are more willing to involve children in decision-making, more girls are enabled to attend school;
  - **Changes in children's lives** – more children are aware of their rights or fewer children experience violence in school.

It is also important to collect information on **how** the programme has worked. In order to do this, **process indicators** need to be developed. Obviously, the type of indicator will depend on the nature of the work the programme is doing. If it involves children's participation, it would be useful to include indicators or benchmarks to assess the quality of that participation. It may be helpful to explore the development of indicators against which to measure whether the programme has promoted children's best interests, promoted non-discrimination, or adopted a strength-based approach.

- **Collecting data** – data to measure progress can take many forms:
  - **Documentary data** which demonstrates evidence of an intention to fulfil, protect or respect children's rights for example, legislation, regulations, or policies.
  - **Quantitative data** gathered through surveys or questionnaires or available from the government which demonstrates a numerical change such as numbers of teachers trained in children's rights.
  - **Qualitative data** which can be gathered through interviews, focus groups, or participatory research and provides evidence of people's experiences, for example, children feeling safer.

- **Monitoring the data** - The information collected needs to be analysed to monitor what has happened as a consequence of the work of the programme. It will provide evidence of:
  - whether the activities are taking place as envisaged;
  - whether changes are beginning to occur;
  - whether the benchmarks or indicators are providing relevant and sufficient information to make a judgement about the previous two points.
  
- **Evaluating the findings:** An evaluation will normally take place at the end of a programme, or at fixed points along its course. It requires bringing together all available information from the regular monitoring and analysis to consider how far the programme reached its objectives in realising children's rights. The results should provide the information to:
  - determine what actions have and have not been effective;
  - assess whether the process has been consistent with a child rights programming approach;
  - make recommendations about how the current or future programme needs to be changed to be more effective.

**Tips to bear in mind in child rights-based M&E**

- Remember the overarching aim is to promote children's rights
- Build M&E into the whole programme cycle
- Include process as well as outcome indicators
- Include indicators which identify possible negative as well as positive changes
- Involve children and young people at all stages
- Be prepared to recognise where programmes have failed to achieve positive outcomes for children
- Think about what will be done with the results, who they need to be shared with and how they will be shared.