young thinking - child rights programming
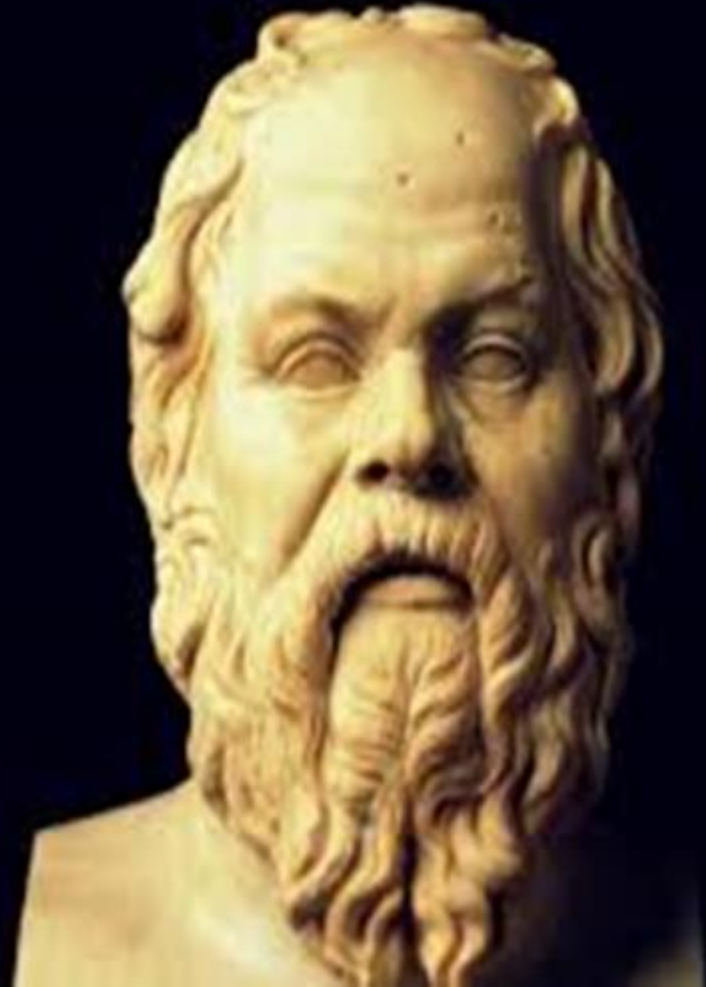
does the law protect your rights?

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the right to own property
the right to vote
the of freedom of expression
the right to information
the right to drive
the right to freedom of movement
the right to live free from violence

Bill of Rights

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Human rights are the rights and freedoms all people have regardless of their different identities.

The Universal Declaration of Human Rights was proclaimed by the United Nations General Assembly in Paris on 10 December 1948
This Declaration set out, for the first time, fundamental human rights to be universally protected, including:

- **the right to be free from violence**
- **the right to vote**
- **the right to information**
- **the right to work**

needs vs rights

Other Approaches	Rights-based Approaches
Action is voluntary or optional	Action is mandatory
People have needs which should be met, and these needs can be prioritized	People have legally established claims and entitlements
Poor people deserve help as the object of charity	Poor people and entitled to help as the subject of right
Some people may have to be left out (i.e. a target can be less than 100%)	All people have the same right to fulfil their potential and should be assisted to do so (i.e. the target is 100%)
People attected by development work are passive beneficiaries: they can be invited to participate in order to improve the effectiveness of programmes or projects	People affected by development work are active participants by right
Some need may not be recognized in some cultures	Right are universal and inalienable, they connot be diluted or taken away

partners and ownership of process
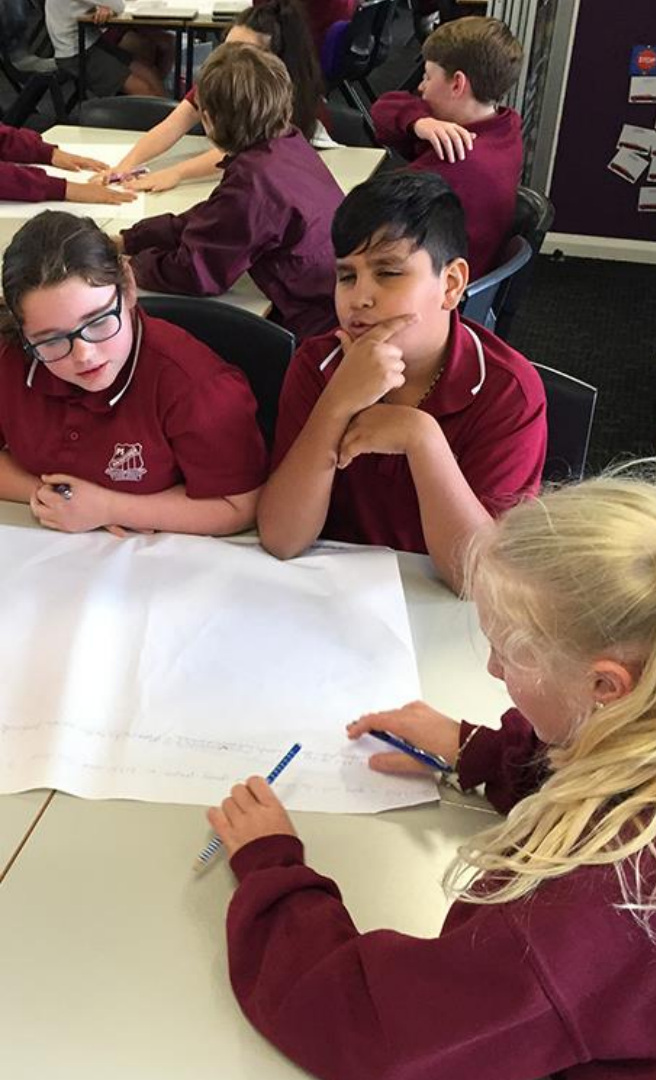
the four general principles of child rights

Article 3
Best interests of the child

Article 6
Right to life, survival and development
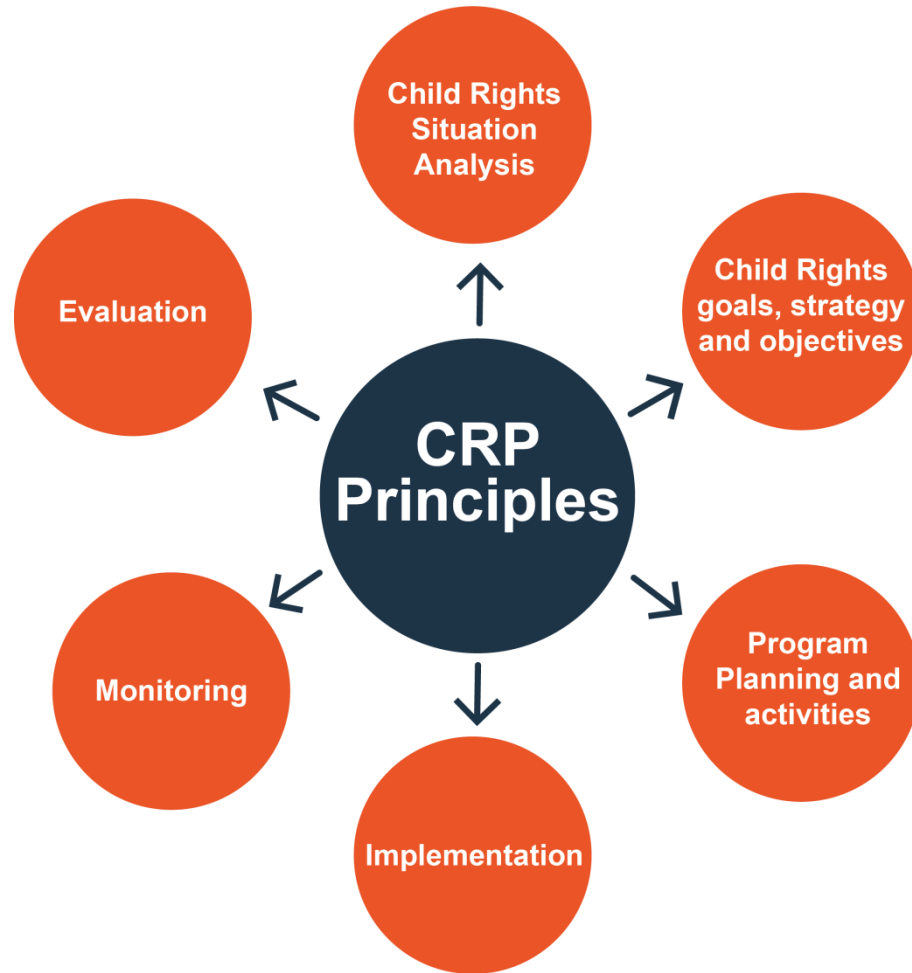
Article 2
Non-discrimination

Article 12
Right to be heard

components of child rights programming

- focus on child rights
- holistic approach
- obligation and responsibility
- advocacy
- participation
- best interests
- children as active agents in their families/communities

what is child rights programming (CRP)?

- institutes the fulfillment of Child Rights as the fundamental motivation underpinning all programs and programming work.

- establishes minimum standards for the treatment of children and how child rights are to be engaged in an organisation.

- documents the expectation of employees and stakeholders to uphold and implement principles of child rights in all aspects of their work.

- introduces the foundations for programming to ingrain child rights in a comprehensive and respectful way as an integral element of any organisation.

best interests of the child

- **does the involvement of children pose any disadvantage to them? If so can this be overcome by the staff or organisation?**
- **who does the involvement of children benefit?**
- **are the best interests of children the primary consideration?**
- **where consideration is given to caregivers, parents, organisations, communities and families, this concern should be secondary to the best interests of children.**

best interests determination (BID)
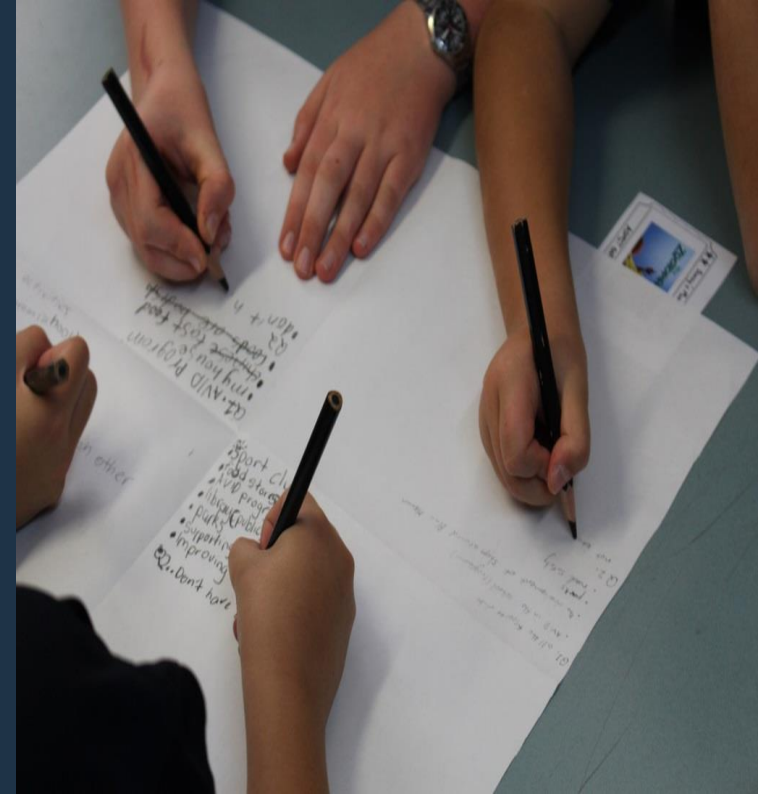
A BID is the formal process designed to determine the child's best interests for particularly important decisions that require stricter procedural safeguards.

A BID requires:

- adequate child participation without discrimination
- due weight given to the views of the child in accordance with age and maturity
- decision makers with relevant areas of expertise

best interests determination (BID)

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do no harm

family

right to culture

right to thrive

FACTORS THAT DETERMINE A CHILD'S "BEST INTERESTS" CHECKLIST

All factors listed below are of relevance when determining which among the available options is in the child's best interests, including identifying the follow-up measures required. The weight of each factor inevitably varies according to the individual child. Advice on the difficult task of balancing these factors is provided in Chapter 3 of the Guidelines.

☐ **VIEWS OF THE CHILD**
- ✓ Child's wishes and feelings and were these obtained from the child directly?
- ✓ The weight to be given to them, in light of the child's age and maturity;
- ✓ Child's ability to comprehend and assess the implications of the various options.

☐ **SAFE ENVIRONMENT**
- ✓ Safety is normally a priority. Exposure or likely exposure to severe harm usually outweighs other factors. Consider:
  - ☐ safety in the geographical location/household under consideration
  - ☐ availability of life-saving medical treatment for sick children
  - ☐ past harm (frequency, patterns, trends)
  - ☐ ability to monitor
  - ☐ whether root causes of past harm still persist.

☐ **FAMILY AND CLOSE RELATIONSHIPS**
a) General factors:
- ✓ Quality and duration of the relationship and degree of attachment of the child to:
  - ☐ siblings
  - ☐ other family members
  - ☐ other adults or children in the cultural community
  - ☐ any potential care-giver;
- ✓ Potential effect of separation from family or change in care-givers on the child;
- ✓ Capacity of current and potential future care-givers to care for the child;
- ✓ Views of persons close to the child, where relevant.

b) Factors specifically relevant to durable solutions for unaccompanied or separated children:
- ✓ Possibility of family reunification (normally presumed to be in the best interests). Consider whether:
  - ☐ tracing has been initiated and its results
  - ☐ the efforts made to contact the parents/family directly
  - ☐ the family relationship to the child has been verified
  - ☐ the child and family member are willing to be reunited and, if not, reasons for any reluctance.

Annex 9

c) Factors specifically relevant to temporary care arrangements:
- ✓ Retention of family and sibling relationships;
- ✓ Prospects for care in a family setting;
- ✓ Prospects of using community care systems (provided they are safe and effective).

d) Factors specifically relevant to separation of a child from parents against their will (normally strongly discouraged):
- ✓ The views of both and the weight to be attached to them;
- ✓ Quality of the relationship between the child and parents and likely effect of separation;
- ✓ Capacity of parents to care for the child;
- ✓ Capacity of extended family members to care for the child;
- ✓ Considerations of proportionality in cases involving removal from family. Consider:
  - ☐ options for addressing problems in a less intrusive way
  - ☐ maintaining a minimal continuity of contact (e.g. under supervision)
  - ☐ separation for the shortest duration and early deadline for review;
- ✓ Access rights.

☐ **DEVELOPMENT AND IDENTITY NEEDS**
- ✓ The child's cultural and community network;
- ✓ Continuity in the child's ethnic, religious, cultural and linguistic background;
- ✓ Specific considerations based on age, sex, ability, and other characteristics of the child;
- ✓ Particular physical or emotional needs;
- ✓ Physical and mental health considerations;
- ✓ Educational needs;
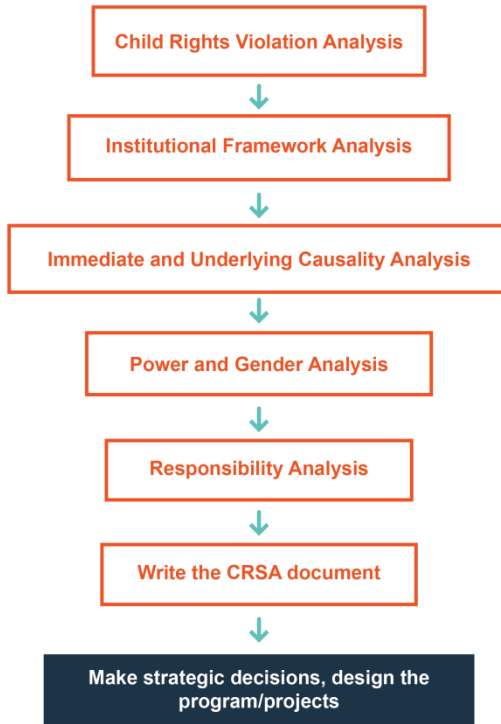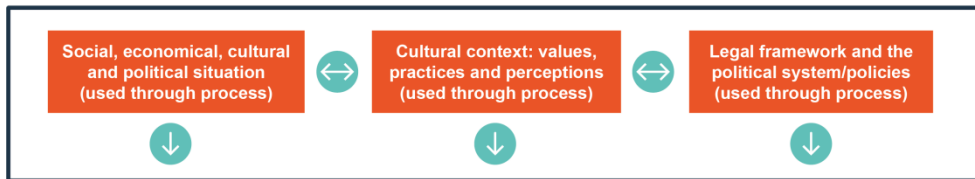- ✓ Prospects for successful transition to adulthood (employment, marriage, own family).

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child rights situational analysis (CRSA)

CRSA looks at the child's situation through a rights lens. It is a first step towards identifying key issues, establishing priorities and making appropriate choices. It involves:

- collecting information and consulting with the child
- mapping out rights violations and gaps
- analysing immediate and underlying causes of violations
- assessing what needs to be done

↘ Listen to children;

↘ Analyse the situation of the whole child in the broader context of family, community…;

↘ Challenge your own assumptions about children, their needs and perspectives;

↘ Strengthen linkages between different sectors, departments and disciplines which affect children;

↘ Consider differences between children;

↘ Consider children's best interests;

↘ Consider the whole child and the whole range of his or her developmental needs;

↘ Ensure positive impact on the child!

| Social, economical, cultural and political situation (used through process) | ↔ | Cultural context: values, practices and perceptions (used through process) | ↔ | Legal framework and the political system/policies (used through process) |

↓ ↓ ↓

Child Rights Violation Analysis

↓

Institutional Framework Analysis

↓

Immediate and Underlying Causality Analysis

↓

Power and Gender Analysis

↓

Responsibility Analysis

↓

Write the CRSA document

↓

Make strategic decisions, design the program/projects

child right situational analysis

The steps in a CRSA are basically the same as those in other situation analyses and
any other participatory research:

1. Make a plan for the situation analysis
2. Do a review of the documents and literature already done on the situation.
3. Identify gaps of data and collect more data on your own.
4. Analyze the data.
5. Gather more data and further analyze, if needed.
6. Draft the situation analysis.
7. Consult widely and verify the analysis with others.
8. Finalize the situation analysis document and start planning and strategy discussion

Rights-based situation analysis

Child Rights violation analysis

Information collation and analysis:
Children's consultation, Budgetary/Administrative/Structural analysis

Causality analysis

Power and gender analysis

Responsibility analysis:
Duty bearer and Stakeholder analysis

non-discrimination

- education of staff, children
- analysis of current programs, proposed programs, ways of working, organisational structure
- challenging issues of discrimination
- analysis of issues when working with children

best interests of the child

- does the involvement of children pose any disadvantage to them? If so can this be overcome by the staff or organisation?
- who does the involvement of children benefit?
- are the best interests of children the primary consideration?
- where consideration is given to caregivers, parents, organisations, communities and families, this concern should be secondary to the best interests of children.

right to life, survival and development

- does the proposed or current design empower children in the decision making process?
- right level?
- foster learning and personal growth of the child, staff and organisation

nsw legislation

Children and Young Persons (Care and Protection) Act 1998

section 10 – the principle of participation

section 10(1)
"To ensure that a child or young person is able to participate in decisions made under or pursuant to this Act that have a significant impact on his or her life…"

nsw legislation

children and young people are provided with the following:

- adequate information, in a manner and language that he or she can understand, concerning the decisions to be made, the reasons for the Department's intervention, the ways in which the child or young person can participate in decision-making and any relevant complaint mechanisms

nsw legislation

- the opportunity to express his or her views freely, according to his or her abilities,

- any assistance that is necessary for the child or young person to express those views,

- information as to how his or her views will be recorded and taken into account,

- information about the outcome of any decision concerning the child or young person and a full explanation of the reasons for the decision,

- an opportunity to respond to a decision made under this Act concerning the child or young person.

Children and Young People Inspectors (CYPI)

CYPI program aims to ensure that children and young people are being meaningfully represented within government, non-government organisations and corporations. The program will train young people to assess how well the service engages with and respects young people.

Benefits

- CYPI provides another lens through which government can evaluate the use of funding targeted to improving outcomes for children and young people across the State.

- Government demonstrates that the concerns of children and young people are taken seriously, including individual sector frameworks and government efforts towards greater social inclusion that promote the participation of young people in these processes.

- Commissioning/contracting departments receive specialised recommendations from children and young people to make their service more relevant, attractive and efficient.

- Children and young people are empowered to make a positive contribution to their community.

pooling

- **Pools of 1,000 children and young people in NSW schools will provide feedback to government on issues affecting children and young people in NSW**

- **33 schools participating**
- **Students are asked to voluntarily complete a short ten question survey and their feedback will inform decisions and policy affecting children and young people**
- **First survey rolled out in February 2017 and is on healthy eating and physical activity.**

supporting you to engage with children and young people

Consent

Participatory rights for children and young people

Ethical considerations

Evaluation

Case studies

How children and young people benefit through participation

How organisations benefit through children and young people's participation

What the Office of the Advocate does to promote participation

Other resources

Citizen Me!

Taking PARTicipation seriously

Australian resources

International resources

Understanding and supporting children and young people's participation

www.acyp.nsw.gov.au

Advocate for Children and Young People

acyp.

NSW Government

Top tips for children and young people's participation

1. Treat children and young people with respect
2. Don't talk down to children and young people
3. Don't be a "try hard"
4. Don't make assumptions about what children and young people are capable of
5. Remember that children and young people are as diverse as any other population group
6. Tell children and young people how they will be involved and always provide feedback
7. Be open to new ideas, especially ones you may not have thought of
8. Give children and young people time and space to say what they mean
9. Give clear objectives and limits for decision making
10. Steer clear of professional jargon whenever possible

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