

Children's needs or children's rights? The Convention on the Rights of the Child as a framework for implementing psychosocial programmes

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The events that characterise complex emergencies: situations of armed conflict, forced migration and natural disasters, can pose a serious risk of violation of children's rights. Psychosocial interventions in such contexts are generally implemented from a 'needs' perspective, and children's human rights are not integrated into the conceptual framework. This article describes the legal and moral obligations of the Convention on the Rights of the Child (CRC), and outlines the process of human rights based programming and evaluation. It is suggested that psychosocial interventions would better meet children's needs and rights if planning, implementation and evaluation were informed by the guiding principles of the CRC.

Keywords: children's rights, evaluation

Introduction

This paper proposes that using the guiding principles of the Convention on the Rights of the Child (CRC) as the framework for intervention would benefit the design, process and evaluation of psychosocial programmes for children affected by armed conflict. Additionally, more than giving us a framework for action, the CRC is an international human rights treaty that sets out the minimum standards for how children should be treated, and what should be avail-

able to secure their wellbeing. It describes the obligations to children that must be fulfilled by all actors, from families and civil society organisations, to governments and international and non-governmental organisations. The framework of the CRC is also important in maintaining a focus on the developing child. It involves children who are in a continuous process of development. Thus, it should never be considered only as a 'static' instrument of international law, but one that is dynamic and continuous, reflecting the developmental process of the child.

Terminology

In recent years, considerable attention has been given to the 'psychosocial' effects of conflict and complex emergencies, and an apparently unlimited number of intervention programmes in complex emergencies are implemented using a psychosocial approach. 'The umbrella label of "psychosocial" has been applied to programmes that seek to promote human rights and justice. Equally the term has been embraced by those initiatives with a community development focus. In addition, programmes providing therapeutic treatment for individuals demonstrating symptoms of mental illness are seen as contributing to psychosocial support.' (Psychosocial Working Group, 2003)

Box 1: What is the Convention on the Rights of the Child?

The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights: civil, cultural, economic, political and social. In 1989, world leaders decided that children needed a special convention just for them because people under 18 years old often need special care and protection that adults do not. The leaders also wanted to make sure that the world recognized that children have human rights too. The Convention sets out these rights in 54 articles and two Optional Protocols. It spells out the basic human rights that children everywhere have: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life. The four core principles of the Convention are: non-discrimination; the best interests of the child; the right to life, survival and development; and respect for the views of the child. Every right spelled out in the Convention is inherent to the human dignity and harmonious development of every child. The Convention protects children's rights by setting standards in health care; education; and legal, civil and social services. By agreeing to undertake the obligations of the Convention (by ratifying or acceding to it), national governments have committed themselves to protecting and ensuring children's rights and they have agreed to hold themselves accountable for this commitment before the international community. State parties to the Convention are obliged to develop and undertake all actions and policies in the light of the best interests of the child.¹

The Psychosocial Working Group (PWG) describes the term psychosocial as emphasising *the close connection between psychological aspects of our experience (our thoughts, emotions and behaviour) and our wider social experience (our relationships, traditions and culture). These two aspects are so closely intertwined in the context of complex emergencies that the concept of "psychosocial wellbeing" is probably more useful for humanitarian agencies than narrower concepts such as "mental health". Interventions focusing narrowly on mental health concepts such as psychological trauma run the risk of ignoring aspects of the social context that are vital to wellbeing. The psychosocial emphasis on social as well as psychological aspects of wellbeing also ensures that the family and community are fully brought into the picture in assessing needs.*²

The PWG defines the psychosocial wellbeing of an individual with respect to three inter-related core domains:

1. Human capacity. This is fundamentally constituted by the health (physical and mental) and knowledge and skills of an individual. In these terms, improving physical and mental health, or education and training in support of increased knowledge, enhances human capacity and thus psychosocial wellbeing.
2. Social ecology refers to the social connections and support that people share and that form an important part of psychosocial wellbeing.
3. Culture and values point to the specific context and culture of communities that influence how people experience, understand and respond to events.

Context

The context for psychosocial interventions is that of complex emergencies: situations of

armed conflict, forced migration, and violent displacement. *Many of the defining features of emergencies – displacement, lack of humanitarian access, breakdown in family and social structures, erosion of traditional value systems, a culture of violence, weak governance, absence of accountability and lack of access to basic social services – create serious child protection problems. Emergencies may result in large numbers of children becoming orphaned, displaced or separated from their families. Children may become refugees or be internally displaced; abducted or forced to work for armed groups; disabled as a result of combat, landmines and unexploded ordnance; sexually exploited during and after conflict; or trafficked for military purposes. They may become soldiers, or be witnesses to war crimes and come before justice mechanisms. Armed conflict and periods of repression increase the risk that children will be tortured. For money or protection, children may turn to “survival sex”, which is usually unprotected and carries a high risk of transmission of disease, including HIV/AIDS’ (UNICEF).²*

The ‘serious child protection problems’ outlined above constitute violations of children’s rights. Many of the children affected by the events and circumstances that characterise complex emergencies will be those whose lives are already described by impoverishment, discrimination and social marginalisation, and for whom the ‘emergency situation’ is but another step in the progression of lives lived in very difficult circumstances. I think this point is worth emphasising. When agencies and organisations of one sort or another arrive to implement a ‘psychosocial’ programme they are not entering a scenario that is necessarily new to the people with whom they decide to work, although it may be even worse than it was before. Psychosocial programmes for children in these situations are often implemented from a ‘needs’ perspective, and children’s human rights are not usually integrated into the conceptual framework of the programme. In implement-

ing a human rights based framework, a holistic view of the context of the children’s lives and experiences is taken. There is an analysis of the reasons why rights are breached or not fulfilled, and measures to address this are identified.

Moving from needs to rights: the Convention on the Rights of the Child

The CRC is not just a catalogue of children’s rights. It is an international human rights treaty that constitutes a comprehensive listing of the obligations that States are prepared to recognise towards the child. The CRC and the rights and duties contained in it, are part of the framework of human rights law. It is not an option, but an obligation. The CRC implies all levels of society, from the individual to state services, and the international level, emphasising the ‘progressive realisation’ of children’s rights. The following articles are ‘general principles’ that are basic to implementation of all rights contained in the Convention:

- Article 2 on non-discrimination
- Article 3 on the best interests of the child
- Article 6 on the right to life, survival & development
- Article 12 on respect for the views of the child

It is almost 17 years since the ratification of the CRC. In that time, it has occasioned a significant change in our understanding and response to children, particularly those situations where children are considered vulnerable due to the adverse circumstances they experience in their daily lives. This is most evident in the gradual shift from needs based to rights based programmes. Now there is less of an emphasis on children and their communities as ‘beneficiaries’ of child focused

programmes, and more on the need to establish partnerships, to see children as *'rights holders'* and to assess how programmes enable children to access their rights, as opposed to providing services to children in need. Promoting and protecting children's rights implies that we must find ways to reach out to children, and their families and communities, and incorporate their ideas and experience, and to influence other organisations, not least government institutions in countries where child rights remain an ideal and not a reality. The frame of reference for these discussions is Child Rights Programming (CRP).

One useful way of thinking about CRP is to consider the definition of its three component words:

- **Child:** every boy and girl under the age of 18 years, a period of childhood accorded special consideration in human rights terms ... characterised as a period of evolving capabilities and of vulnerabilities relative to those of adults.
- **Rights:** defined as international human rights applicable to children, set out primarily in the UN CRC but also to be found in all other human rights conventions.
- **Programming:** management of a set of activities, including analysis, planning, implementation and monitoring, towards a defined goal or objective, involving good development practice.

The combination of these three definitions provides an overall working definition of CRP: *'Child rights programming means using the principles of child rights to plan, implement and monitor programmes with the overall goal of improving the position of children so that all boys and girls can fully enjoy their rights and can live in societies that acknowledge and respect children's rights.'* (Save the Children, 2005) Both rights based, and

needs based approaches are founded on a desire to help people survive and develop to their full potential. They both seek to identify a range of assistance and actions that are needed to achieve this. Where they differ is in their underlying assumptions and the implications of these assumptions for programming.

An important difference between the needs based and the rights based approach is that *'a needs based approach does not come with accountability. There is no moral or legal obligation on the state and/or other statutory bodies to protect or assist. Many rights have developed from needs, but a rights based approach adds legal and moral obligations and accountability. Equally, in a rights based approach, the holders of the rights are encouraged and empowered to claim their rights. This means that they are not seen as objects of charity (as they are in a needs based approach) but rather those who are claiming their legal entitlements.'* (Save the Children, 2005)

Keeping a focus on the developing child

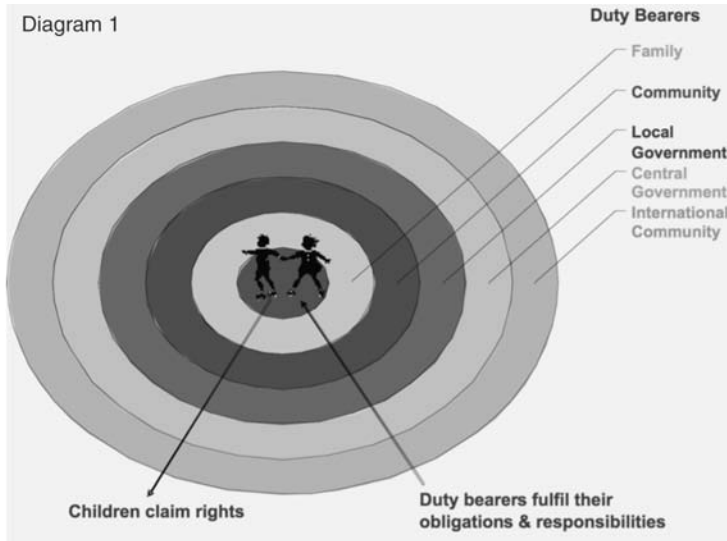
A basic concept of the CRC is that *'all children should be allowed and supported to develop to their full potential. Understanding and knowledge of child development as a process is important for grasping the real significance of children's rights.'* (Dunn, Jareg & Webb, 2003) Put simply, what children need to develop translates to what are their rights, and they are entitled to standards of care and protection that guarantee their rights. States have an obligation to ensure that adequate resources are available to meet their commitments to children. That said, the ability, and often the willingness, of States to fulfil their obligations is not always present, and recourse may be made to local and international organizations to *'fill the gap'* in providing services to prevent and address violations of children's rights. In so

Needs Perspective	Rights Perspective
Private charity	Public, political, moral and legal responsibility, obligation, duty
Voluntary	Mandatory
Welfare, alms, charity	Legal entitlements, claims, guarantees justice, equality, freedom
Address symptoms	Address root causes
Partial goals (example: 80% of children are immunised; aim to deliver services to the largest number of people)	Complete goals – all people have the same rights (80% immunisation coverage means the right to immunisation has not been realised)
Hierarchy of needs. Some needs are more important than others (e.g. food before education)	Rights cannot be divided, they are indivisible and interdependent
Needs vary according to the situation, the individual and the environment	Rights are universal (the same everywhere)
Providing welfare services (object of needs)	Empowering (subject of rights). Rights holders (are empowered to) claim their rights
Determination of needs is subjective	Rights are based on international standards
Short-term perspective, filling gaps	Long-term perspective
Service provision	Awareness raising of all groups (parents, children, decision makers)
Specific projects targeting specific groups of children	Holistic approach
Children deserve help	Children are entitled to help
Governments ought to do something but nobody has definite obligations	Governments have binding legal and moral obligations
Children can participate in order to improve service delivery	Children are active participants by right
Given scarce resources some children may be left out	All children have the same right to fulfil their potential
Each piece of work has its own goal but there is no unifying overall purpose	There is an overarching goal to which all work contributes
Certain groups have the technical expertise	All adults can play a role in achieving children's rights (and children as well)

doing, they are also fulfilling their own obligations as *duty bearers*’.

The following diagrams represent the environments in which children's rights and children's development are realised. The first

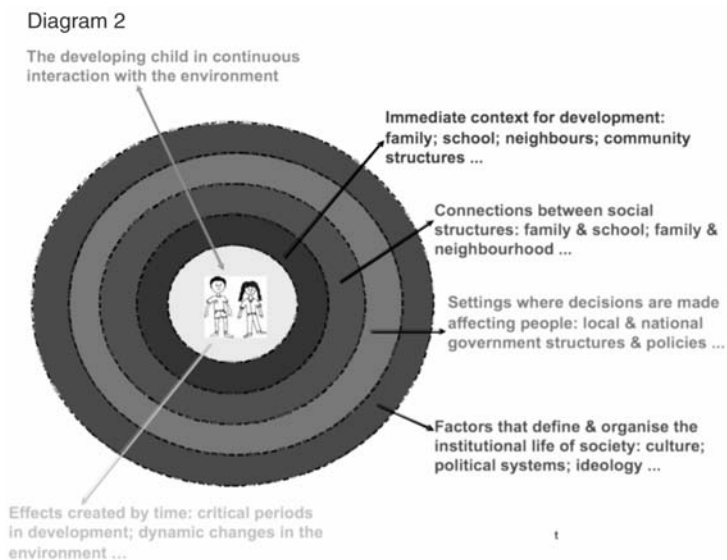
introduces the concept of *duty bearers*. These are the communities of interest who have an influence on children's lives, and who therefore constitute duty-bearers³ for different obligations towards children.



The second diagram represents the ‘social ecology’ in which children develop, and reflects the dynamic interaction between the economic, social and cultural factors that define the child’s experiences. Communities are ‘constantly adjusting to events and circumstances. This implies that there is no “normal” state for a community to return to post conflict. Thus the goal of any external intervention should not be to “restore” the community to its former state. Instead the external

support should be seeking to enhance the community’s ability to deploy resources to “transform” itself in response to its changing circumstances. The long-term goal would be that the community would be able to continue to meet these challenges independently without the need for external support’ (Ager & Strang, 2001).

Understanding that the context for intervention is not static, but dynamic and interactive is, I think, key to determining how we frame



psychosocial interventions for children. In this regard, children themselves emerge as significant actors in any intervention to address their psychosocial wellbeing. Within the various contexts described in the diagrams above, children are not bystanders or passive victims of events controlled by adults. *'Traditionally the planning of and preparations for child protection projects have focused on adult views on a given problem. With the CRC children are increasingly being seen as active agents themselves. This change implies an increased focus on children's active participation in all stages of a given project – from planning to evaluation ... It also marks a shift in focus from looking at children's "vulnerability" to explore how we may support and develop children's "resiliency" and general coping strategies ... (and) a shift in emphasis from merely "rescuing" or "saving" children to approaches in which the involvement and empowerment of children is seen as part and parcel of the solution to their problems.'* (Crawford, 2001). When the CRC is used as the standard against which to measure change and progress in children's lives, a broad, systematic and long-term view is taken, as opposed to the shorter term and limited view of needs based interventions. Rights based approaches, whilst of necessity addressing the needs of children in adverse circumstances, do not just provide services, but address the rights violations that characterize a situation, and seek to implement structural changes that prevent the continued violation of children's rights. The rights based approach enables (Theis, 2003):

- A clear focus on children and their rights.
- Equity and non-discrimination: A focus on the worst rights violations and on the most marginalised children.
- Accountability: Strengthening the accountability of duty bearers for children's rights at all levels through: direct action for children's rights, changes in laws and

policies, changes in institutional practices, and changing adult attitudes and behaviours.

- Participation: Strengthening right holders (children, adults and civil society institutions) to demand children's rights.
- The promotion of children's participation in society and in programmes.
- Best interests of the child: Programming based on what is in children's best interests in the short and long term.
- Linkages: Working with other government and non-government agencies towards common rights-based goals.

Concluding remarks

The CRC is both a framework to guide action with and on behalf of children, and an international standard on what should be available to children to secure their survival and development. With the child at the centre, the CRC emphasises the need to work within each of the concentric circles of care around children: parents; community; civil society organisations; national and international NGOs; and the legal and policy frameworks of governments and international organisations. The organising framework of the CRC enables us to work in coalition; to set standards and good practice guidelines among agencies (e.g. the guidelines on working with separated children, used very effectively after the 2005 tsunami); to help governments meet their responsibilities, and to support civil society actions in favour of children's rights. With this in mind, when psychosocial programmes are implemented in complex emergencies, we will be better able to understand that our actions do not constitute only the provision of particular services, but should be conceptualised and structured so as to address the violations of children's rights that are inherent in such situations.

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¹ www.unicef.org/crc The Convention on the Rights of the Child is the most widely and rapidly ratified human rights treaty in history. Only two

countries, Somalia and the United States, have not ratified this celebrated agreement. Somalia is currently unable to proceed to ratification as it has no recognised government. By signing the Convention, the United States has signalled its intention to ratify, but has yet to do so.

² Child Protection. A Handbook for Parliamentarians (2004) Inter-Parliamentary Union & UNICEF. http://www.unicef.org/ceecis/IPU_combattingchildtrafficking_GB.pdf.

³ Duty-bearers: Human rights are linked to duties, accountability, obligation and responsibility. Duty-bearers are the actors collectively responsible for the realisation of human rights. Those who bear duties with respect to a human right are accountable if the right goes unrealised. When a right has been violated or insufficiently protected, there is always someone or some institution that has failed to perform a duty. Save the Children (2002).

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