



National human rights institutions (NHRIs) Series:
Tools to support child-friendly practices.

PRESENTATION OF THE TOOL KIT AND CHILD RIGHTS APPROACH

Acknowledgements

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ABOUT THIS TOOLKIT

Introduction: Presentation of the toolkit and the child rights approach

This toolkit, commissioned by the United Nations Children’s Fund (UNICEF), has been developed to support national human rights institutions (NHRIs) in their work to promote and protect the rights of children. Its overall objective is to provide concrete and detailed guidance to NHRIs on what it means to implement a child rights approach in their daily work when carrying out their mandates. This also includes identifying possible challenges, tensions and dilemmas given the specific nature of NHRI work, and proposing concrete ways to anticipate and overcome them. The approach proposed is articulated around the need to strongly anchor the materials produced in field practice and the daily realities that NHRIs face. While the relevant international standards are the core principles guiding implementation, the methodology has also drawn on the real-life experience of NHRIs (what works and practical challenges) to develop tools that address specific concerns on the ground.

Focus of the toolkit

The toolkit is intended for use by NHRIs undertaking work on children’s rights that have dedicated children’s units or children’s commissioners, and other independent specialized institutions working on children’s rights. It addresses three distinct but closely interlinked aspects of the work in which NHRIs have identified that they require additional support if they are to fulfil their commitments to children effectively:

- Outreach and promotion with and for children;
- Complaints made by and on behalf of children; and
- Participation and involving children in the work of the NHRI.

These tools will be supported by the development of a series of webinars designed to explore and elaborate their content, and to facilitate understanding of the application of a child rights based approach to the three issues.

Each tool follows a similar structure:

- An introduction to the topic: what it means and what it involves;
- Practical guidance on how to undertake this area of work, including practical examples from the work of NHRIs across different regions;
- The challenges arising and how to address them;
- Monitoring and evaluating the work, and potential tools to support it; and
- Additional resources.

Methodology

The process of developing the toolkit began in 2017 with an information gathering exercise, including an online survey, to identify examples of practice with respect to outreach, complaints and participation across NHRIs within Europe and Central Asia. Additional examples from earlier surveys of NHRIs in other regions were also reviewed. The overall findings were used to inform the development of the toolkit.

The work has been undertaken by a team of consultants and supported throughout by a Reference Group, comprising representatives of NHRIs in Europe and Central Asia, as well as individuals from the European Network of Ombudsmen for Children (ENOC), the Global Alliance of National Human Rights Institutions (GANHRI) and UNICEF. This group has commented on drafts, provided illustrative examples of good practice, and met for a face-to-face meeting in Budapest in July 2018 to review the final drafts in depth.

The tools, which will be available in hard copy, PDF and online versions, will be piloted during 2019 to assess their usefulness, practicality and impact. It is anticipated that individual NHRIs may be able to translate the tools into their local languages, potentially with support from UNICEF.

A child rights based approach

The tools are based on a commitment to adopting a child rights based approach to the work of NHRIs. This approach entails recognizing the Convention on the Rights of the Child (CRC) as the comprehensive and holistic framework governing all actions relating to children, and the guide for NHRIs' work concerning children. This means that NHRIs need to work towards ensuring that these rights are respected, protected and fulfilled for every child. Many of the rights correspond to those enjoyed by adults, but they need to be understood and applied with particular recognition of the implications of childhood status, for example, with regard to criminal justice or reunification. Other rights are specific to the vulnerable status of the child: for example, the concept of best interests, alternative care, adoption or the right to play. Overall, they include:

- *Provision rights*, for example, health, education, play, social security, an adequate standard of living, support for parents, family life including non-separation except when in the child's best interests, care and adoption;
- *Protection rights*, for example, from violence, economic and sexual exploitation, harmful drugs, armed conflict, torture, inhuman and degrading treatment, illicit transfer and non-return, and access to child-friendly justice systems, as well as protection of refugees and children with disabilities; and
- *Participation rights*, for example, birth registration, name and nationality, freedom of expression, religion, association, information, privacy, evolving capacities and the right to be heard.

In addition, a child rights based approach has implications for the way in which the work of the NHRI is undertaken. The same core human rights principles that inform all the work of NHRIs are equally relevant for children, including:

- *Universality and inalienability*: Human rights must be afforded to everyone, without exception. Children are entitled to these rights simply by virtue of being human. They therefore must be

recognised as inalienable to each child. They are 'portable' and apply wherever the child is. In other words, children have the same rights whether they are at home, at school, in hospital or in detention. Thus, for example, the right to protection from corporal punishment applies in all contexts without exception.

- *Interdependence and indivisibility*: All the rights in the CRC are equally important: they are indivisible and interdependent. The realization of one right can be dependent on the realization of others. For example, children cannot fully benefit from their right to education if they are living in extreme poverty, faced with violence and lacking access to the health care they need. In its work to promote and protect children's rights, the NHRI needs to recognize the importance of a holistic approach that addresses the CRC as a whole.
- *Transparency and accountability*: When governments commit to upholding children's rights they need to be held accountable for these commitments. NHRIs have an important role to play both in monitoring government compliance with the CRC and also in ensuring that the actions of governments are rendered transparent to the children themselves. In this way children, too, can be empowered as active participants to hold governments accountable.
- *Dignity*: Under the CRC, as in all human rights law, it is assumed that every child has inherent dignity. The key to a child rights based approach is that children must be accorded the inherent dignity of all members of the human community. Being treated with dignity and respect is not a privilege to be earned and guarded. It is a birthright of everyone. All too often, however, children are denied respect for their dignity, and are silenced and disregarded. Their views and concerns are treated as irrelevant and trivial. They are subject to humiliating punishments and treatment. They are rendered invisible. Fundamental to the work of NHRIs must be a commitment to challenging these widespread approaches and to ensuring that within the institution itself respect for the dignity of the child is a central and overarching principle.

The following four rights embodied in the CRC have also been specifically identified by the Committee on the Rights of the Child as central for the implementation of all children's rights. They need to be used to inform and guide all the activities of NHRIs, including outreach, complaints, advocacy, training and awareness raising. These principles are:

- *Non-discrimination*: NHRIs need to ensure that their work reaches out to all children, including the most marginalized and excluded. It also needs to be focussed on addressing all forms of discrimination whether direct or indirect, and whether it arises through legislation, cultural attitudes and beliefs, or media representation of government action or inaction. It is also important to address discrimination against children as a consequence of their age, for example through status crimes such as running away from a care home or the imposition of age-restricted curfews.
- *Best interests of the child*: the best interests principle is a central building block of the CRC. The Committee on the Rights of the Child has stressed that application of this principle requires '*the development of a child-rights based approach designed to secure the holistic physical, psychological, moral and spiritual integrity of the child and to promote his or her dignity.*¹ This can only be achieved through realization of all the rights in the CRC. In the context of NHRIs, the best interests principle needs to inform work at all levels, including how children are treated within the NHRI, as a principle to be applied in resolving complaints, in outreach and promotional work, and

¹ CRC General Comment CRC/C/GC/14, May 2013

in advocacy at all levels. This is a principle that also needs to be recognized as applying both with respect to individual children and to children as a group or constituency.

- *The right to life, survival and development:* A central concept of the CRC is that children carry within themselves the potential for their own development. However, they also need support and positive environments to enable them to achieve their fullest potential. The work of NHRIs in relation to children needs to focus on holding governments to account in creating opportunities for children through promotion and protection of their rights. It is through the realization of their rights that children will achieve their optimum development.
- *The right to be heard and taken seriously:* Central to a child rights based approach is a commitment to ensuring that children themselves are listened to and taken seriously. Historically, children have been treated as 'objects' rather than 'subjects': as if they were merely recipients of adult protection and decision making, often without respect for their dignity, participation and evolving capacities. The CRC has challenged this approach to children and childhood, and moved the focus from charity-based treatment to a rights-based approach, recognizing children as agents entitled to be actively involved in decisions that affect their lives. Children, both in matters affecting themselves as individuals and as a group, are entitled to express their views and to have them given due weight in accordance with their age and maturity. The Committee has also consistently emphasized the importance of building the capacity of children as rights holders to claim their rights and of children's evolving capacities to be recognized and respected during childhood, as well as the right to take increasing levels of responsibility for their own decisions and actions as their competencies develop. NHRIs need to acknowledge the obligation to engage children at all levels in their work, as an integral dimension of a child rights based approach.

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