

# Children's Rights:

*key CROC\* articles for Aboriginal & Torres Strait Islander children and families (taken from the UN Convention on the rights of the child as it relates to Indigenous children)*

## What are rights?

*A right can be an entitlement and /or a freedom.*

## Why rights?

*Rights –based negotiations with government and agencies provide a legal foundation within which needs are more likely to be taken seriously.*



## There is a direct relationship between rights and needs.

The social and emotional wellbeing of a child depends upon a range of needs being met that link to children's rights.

- For example, one way a child can feel safe and secure is from the continuity of being cared for by family, relations or community members within which she or he can have the chance to develop a sense of identity within their cultural community.
- This need for Aboriginal and Torres Strait Islander children to enjoy continuity of care and upbringing within their culture; is a right by **Article 30**.

**Article 30** says that; *"a child...who is Indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion or to use his or her own language"*

**Children's rights** are best understood as a holistic and connected cluster or group that wherever possible should not be separated. Many of the rights in the CROC below are supported by SNAICC's 8 Priorities.

**Non-discrimination:** the right to live without discrimination on any basis [Article: 2].

**Identity:** the right to preserve identity and to know and be cared for by parents [Articles 7 & 8].

**Cultural needs:** the right to have access to family and community [Articles 7, 9, 10 & 30].

**Health:** the right to basic requirements needed to live; adequate food, clean water; protection from harm [Articles: 6, 19 & 24].

**Education:** the right to learn and develop abilities fully [Article: 29].

**Individual expression:** the right to an opinion [Articles: 12,13 &14].

**Participation:** the child's right to have their views heard in matters affecting them [Articles 12 & 13].

## Children's Rights mean that children matter.

**What about parents?** Article 5 refers to the need to respect the rights and duties of parents.

- Children's rights can exist along side parental responsibilities.

### What are best interests?

- A best interest *places* the child's well being at the centre of decisions. [Article 3]
- Best interest refers to all of a child's needs placing survival first.

CROC recognises that the best interests of an Aboriginal and Torres Strait Islander child is to live within family and community wherever possible, but safety from harm is always the first consideration.

- For instance, when alternate care outside community is sought then 'special measures' including programs, actions and funding must be taken to strengthen links to community for the child or young person [GC\*\* 48].

This practice is supported by the **Aboriginal Child Placement Principle**. However the principle prefers that Indigenous children stay within family or

extended family within their own communities. Maintaining cultural identity is a priority but safety is always the first right of a child.

**Government Responsibilities:** Australia ratified the convention in 1990. It has obligations to report to the Committee on the Rights of the Child on how it is meeting its obligations.

**Article 20 places responsibility on governments to make a special effort** known as "special measures" to protect Aboriginal children's rights. These actions include:

- Elimination of racism
- Ensuring that resources such as funding, materials, policy and programs support and protect the enjoyment of rights [GC {27}. P, 6 refers to Articles: 17, 29.1].
- Respecting the role of Aboriginal and Torres Strait Islander parents; For example "*safeguard the integrity of Indigenous families and communities by assisting in childrearing responsibilities*" [GC 46 ref to Articles 3,5,9, 12,18,25 ,27 & 30 of CROC ].

## For more information

<http://www.unicef.com.au/Unicef/SchoolRoom/ForChildrenandYoungPeople/LearnMoreandGetInvolved/ChildrensRights/TheUNConventionontheRightsoftheChild/tabid/126/Default.aspx>

<http://www.unicef.org/crc/>

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\* CROC (United Nations Convention on the Rights of the Child)

\*\* General Comment [GC] refers to the explanation written after CROC to guide Nations.



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