



MACQUARIE
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Children's Right to Participate Turns 30: Law Making with Children and Young People

Children's Research Network Workshop 20 Nov 2019

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Young People Influencing World Politics



Autumn Peltier, UN Headquarters 2019: 'We can't eat money or drink oil.'



Dujan Hoosan, UN Human Rights Council 2019: 'I want adults to stop putting 10-year-old kids in jail ... I want my school to be run by Aboriginal people. I want, in my future, to be able to learn strong culture and language. It is about our dreams, our hopes and rights.'



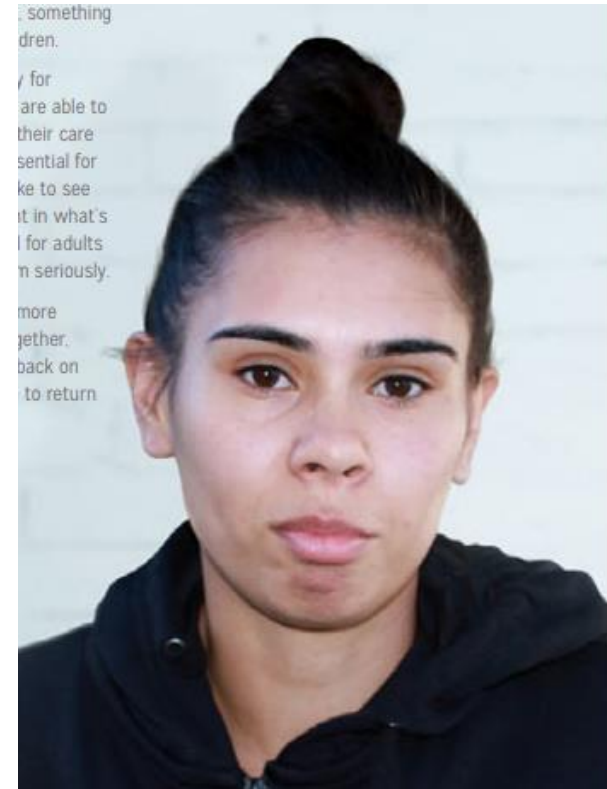
Greta Thunberg 2019 UN Climate Action Summit New York: 'How dare you – you have stolen my dreams and my childhood'

Growing up in Australia

MELINDA'S REFLECTION

'It is important, particularly for Aboriginal children, that family are able to participate in decisions about their care and upbringing. This is also essential for children just like me. I would like to see children have more involvement in what's happening with their lives, and for adults to listen to them and take them seriously.'

CRC25 Australian Child Rights Progress Report, *Australian Child Rights Taskforce*, 2016, 43.





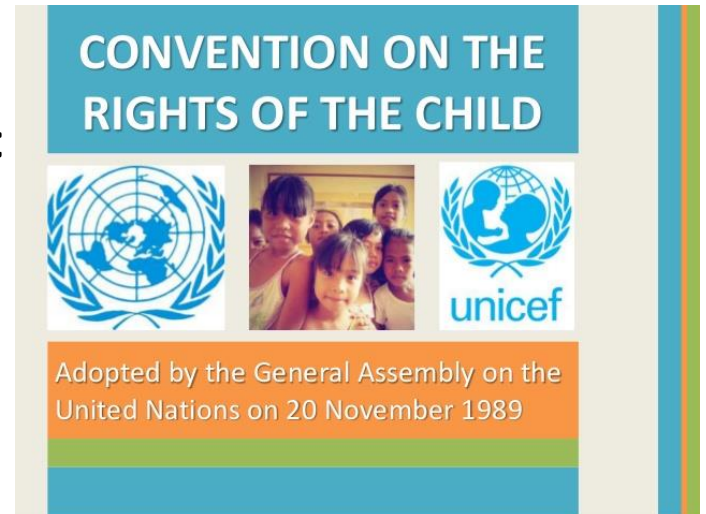
‘Australia is a wonderful place for most of its children...However, Australia is not a wonderful place for all its children, especially its Aboriginal children. To do better for all our children, Australia needs to learn to listen to children.’

Listen to Children: 2011 Child Rights NGO Report, Australia.

Children's Right to Participate in Decision-Making Processes

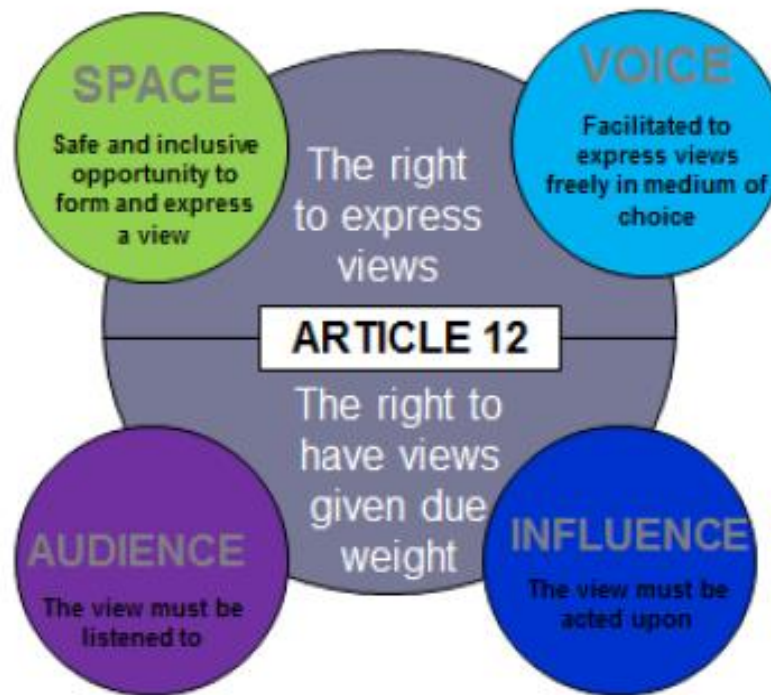
Article 12, *Convention on the Rights of the Child*

'State parties **shall assure to the child** who is capable of forming his or her own views **the right to express those views freely in all matters affecting the child, the views of the child being given due weight** in accordance with the age and maturity of the child.'



A Child Rights-Based Approach to Research and Article 12 of the CRC

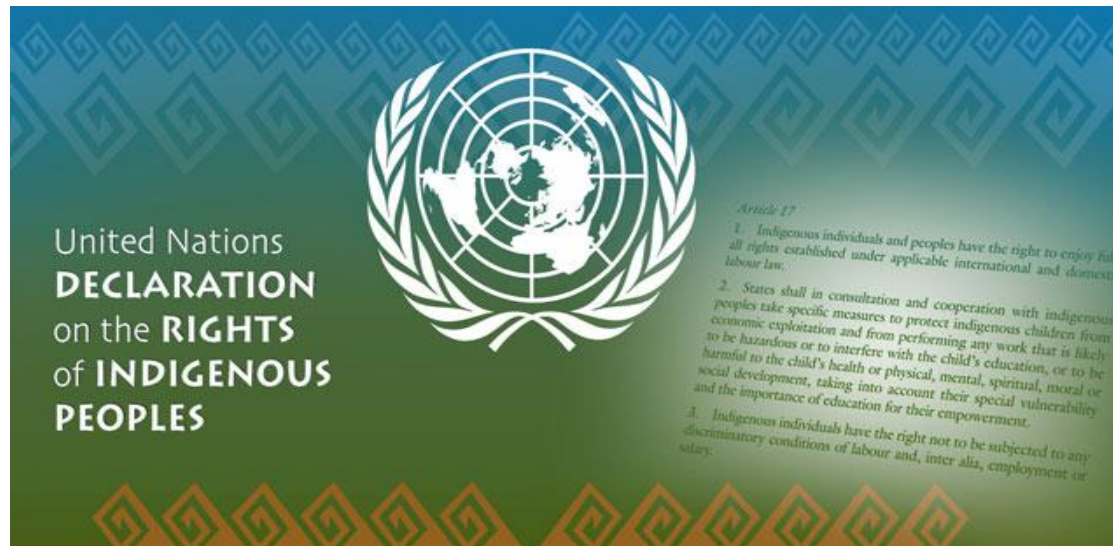
Lundy's Conceptualisation



Laura Lundy, 'Voice' is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child' (2007) 33(6) *British Educational Research Journal* 927.

Article 19 - *UN Declaration on the Rights of Indigenous Peoples (UNDRIP)*

‘States shall consult and cooperate in good faith’ with Indigenous peoples ‘in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.’



Why/How Should Aboriginal and Torres Strait Islander Children & Young People Participate in Legislative Development?

INTERNATIONAL LAW

- *Art 12: Convention on the Rights of the Child*
- *Art 19: United Nations Declaration on the Rights of Indigenous Peoples*

METHODOLOGY

A child rights-based approach (Lundy 2007) with Indigenous research methodologies (Smith 2012; Nakata 2007; Ray 2012; Coram 2011)

METHODS

‘Yarning’ and ‘peer-to-peer interviewing’ (Bessarab and Ng’andu 2010)

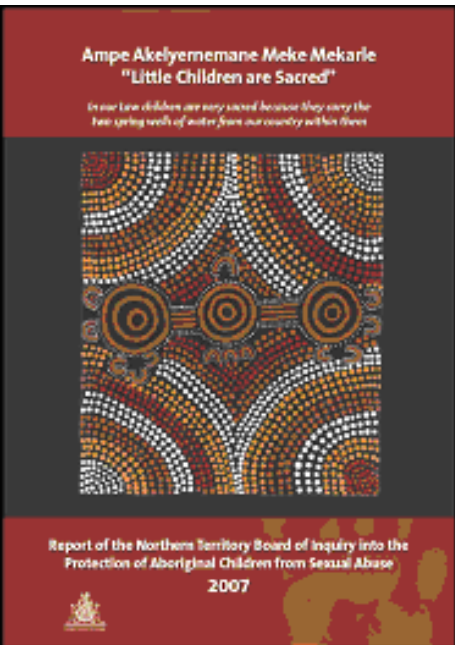
CASESTUDY: The ‘Intervention’

RESULTS

- Views about the Intervention and involvement in law making
- A model for Indigenous children and young people’s participation in law making

Case Study: 'Intervention'

*(The Northern Territory Emergency Response/
Stronger Futures Legislation)*



Source:

<http://treatypublic.net/content/homelands-underfunding-town-camp>

'... the last time civilian authority was overturned by the military in the NT was in the aftermath of Cyclone Tracy' in 1975.



Marion Scrymgour, 'Whose National Emergency? Caboolture and Kirribili? or Milikapiti and Mutitjulu?' (Paper presented at the Charles Perkins Oration, 2007) 14.

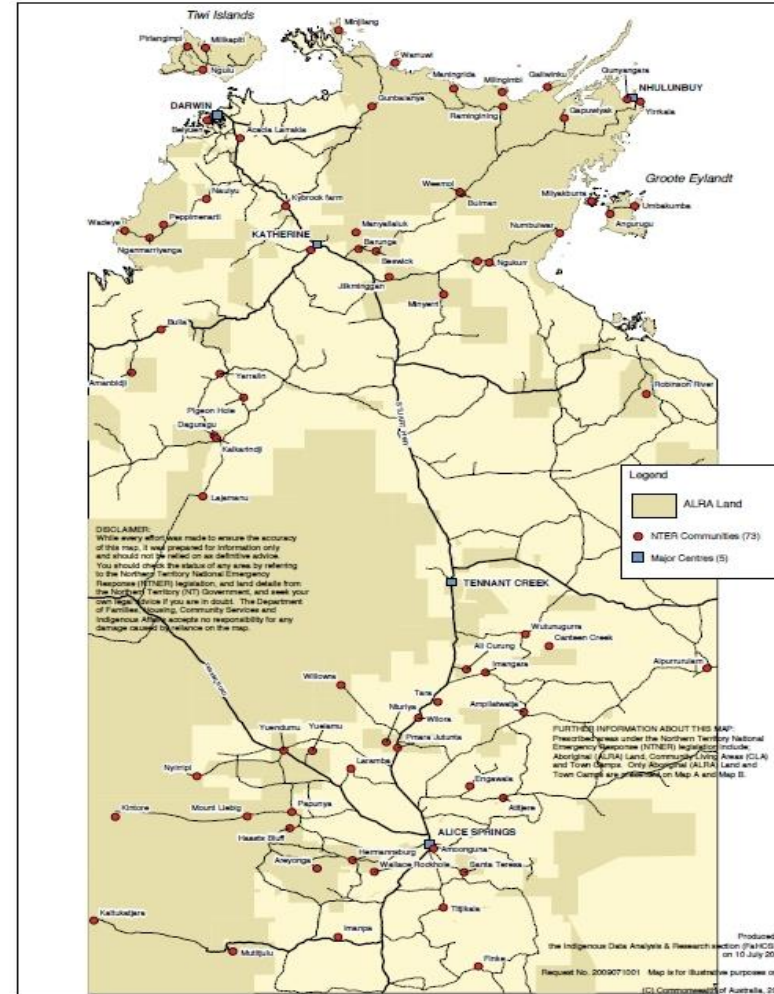
CASE STUDY: The Intervention

June 2007: *Little Children are Sacred Report* publically released

June 2007: Howard Govt introduces the Intervention setting aside the RDA.

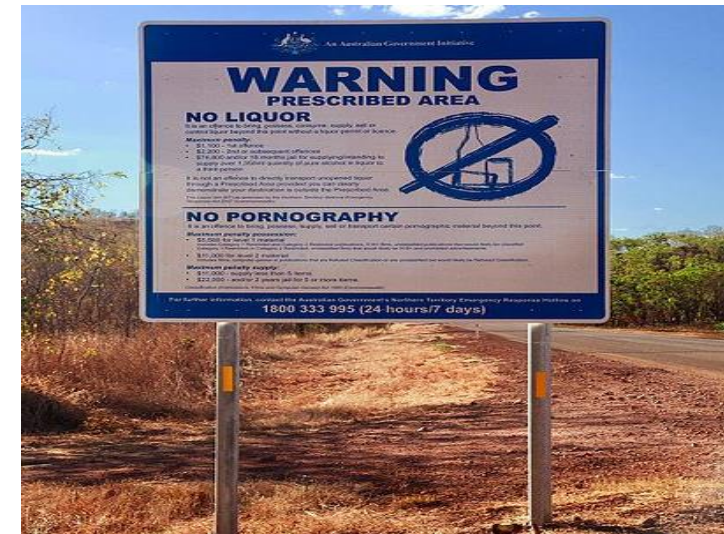
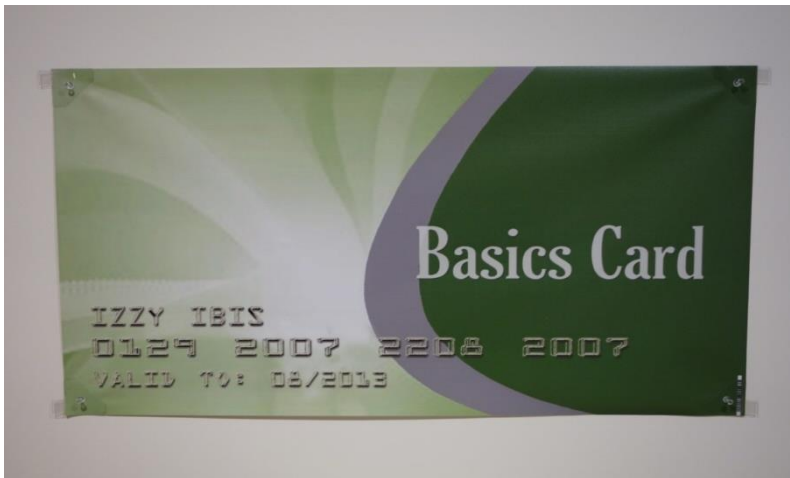
Over 53,000 Indigenous people affected in 73 'prescribed' areas.

- 'Request for Urgent Action' to the UNCERD by the *Prescribed Area People's Alliance*
- The UN required Aust to reinstate the RDA and it was in 2010 – yet special measures persist (Nicholson et al, 2012)
- Stronger Futures legislation – bipartisan support extended till 2022.



Source: 'Evaluation of income management in the Northern Territory,' Commonwealth of Australia, 2010.

Views about Two Elements of the Intervention



Brendan Penzer, *Ghost Citizens: Witnessing the Intervention*
16 May – 17 June 2013, Counihan Gallery, Vic (photograph taken by Holly Doel-Mackaway with permission).

Views about the Intervention



Source: Doel-Mackaway PhD research, participant photo. Used with permission.

Participants in the research, aged 10-17, demonstrated:

- Knowledge about the legislation
- Provided views about the Basics Card and about the warning signs
- Said Aboriginal children and young people should participate in making laws and policies that are likely to affect them.

Holly Doel-Mackaway "‘I think it's Okay ... But it's Racist, it's Bad Racism’: Aboriginal Children and Young People's Views about the Intervention' (2017) 43(1) *Monash University Law Review* 76.

The Basics Card

- It helps in some ways by improving access to food, toys and helps with paying bills
- It also stops dishonest trading behaviours e.g. short changing children and adults in shops
- But it is racist. The majority of children and young people thought the Basics Card was for all Australian's they didn't know it was only for Aboriginal people.



Source: Research participant photo. Used with permission.

The Alcohol Warning Signs

- The signs shame the community and are an ineffective way to stop people drinking
- Alcohol abuse is not a significant problem in some Aboriginal communities
- The signs do not help Aboriginal children and young people



Source: Flickr/Owen65

James (17 year old): No I don't like them.

Tessa (16 year old): It makes communities look bad. They don't respect the community.

Sean (13 year old): They're racist.

Holly Doel-Mackaway "I think it's Okay ... But it's Racist, it's Bad Racism": Aboriginal Children and Young People's Views about the Intervention' (2017) 43(1) *Monash University Law Review* 76.

Views about Participating in Law Making

'Ask Us ... This Is Our Country' (Nathaniel, 16 yrs)

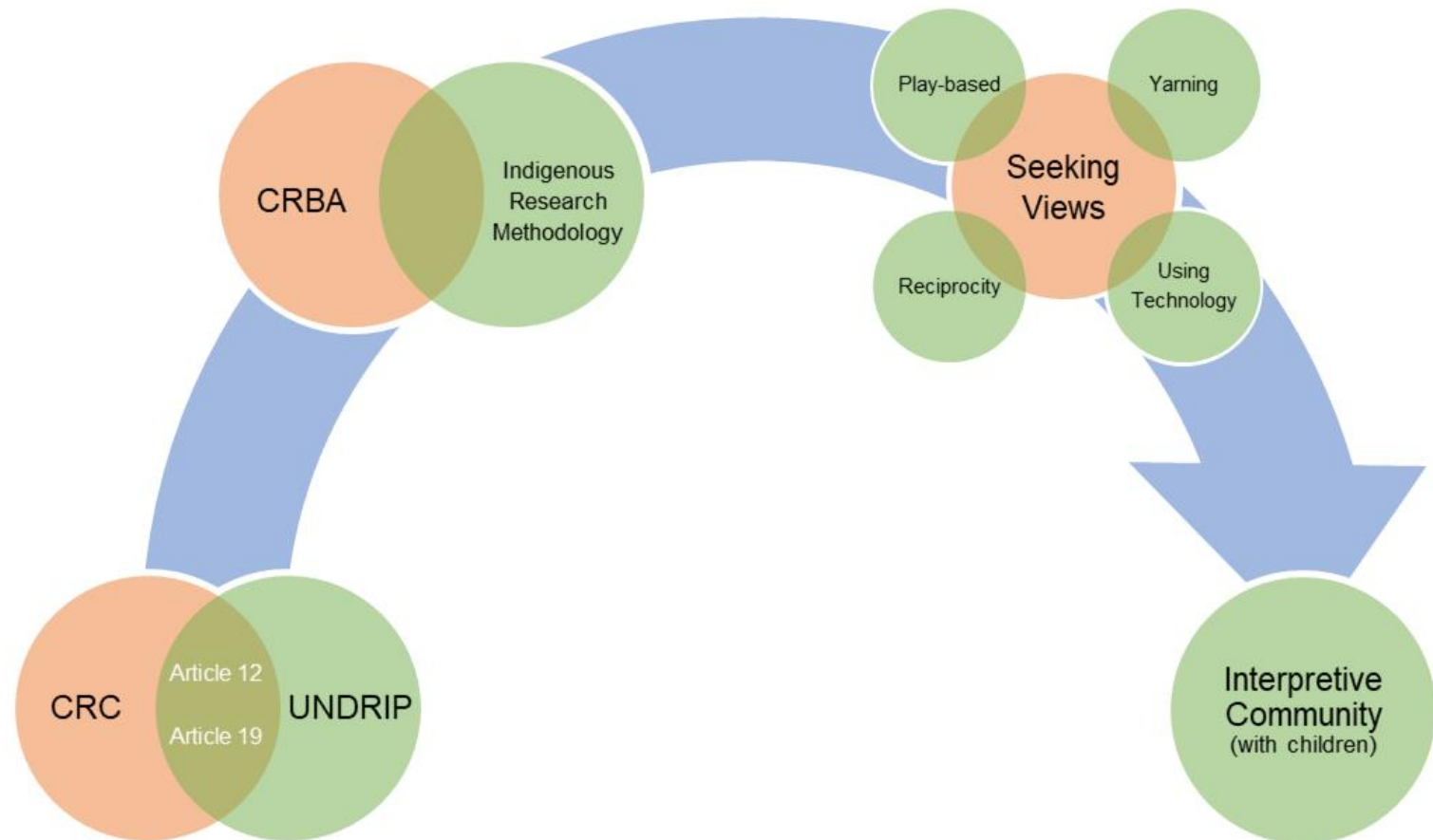
Why?

- Privilege Aboriginal CYP's views as the rightful owners of the land
- Acknowledge the importance of Aboriginal law
- To produce better laws and policies

How?

- Understand the importance of Aboriginal culture and traditions
- Seek appropriate permission and conduct respectful consultations
 - Seek Aboriginal children's views respectfully
 - Consult with Elders, parents, and the school respectfully
 - Ensure the participation 'space' is appropriate

A Model for Indigenous Children and Young People's Participation in Law Making



Respectfully Seek Aboriginal Children and Young People's Views



Use play based tools



Photographs: Holly Doel-Mackaway during research.

Make/Draw/Construct 'Something that is important to you'



'I like toys, and robots, that's what's important to me ... and the dreamtime and culture dance.'

Jacob (pseudonym), 10 years old

Use Child's Environment / Understand and Mitigate Cross-Cultural Barriers



Photograph: Holly Doel-Mackaway during research.

Use Child/Youth Friendly Methods



Photographs: Holly Doel-Mackaway during research.

*Photos / iPad /
yarning / video*



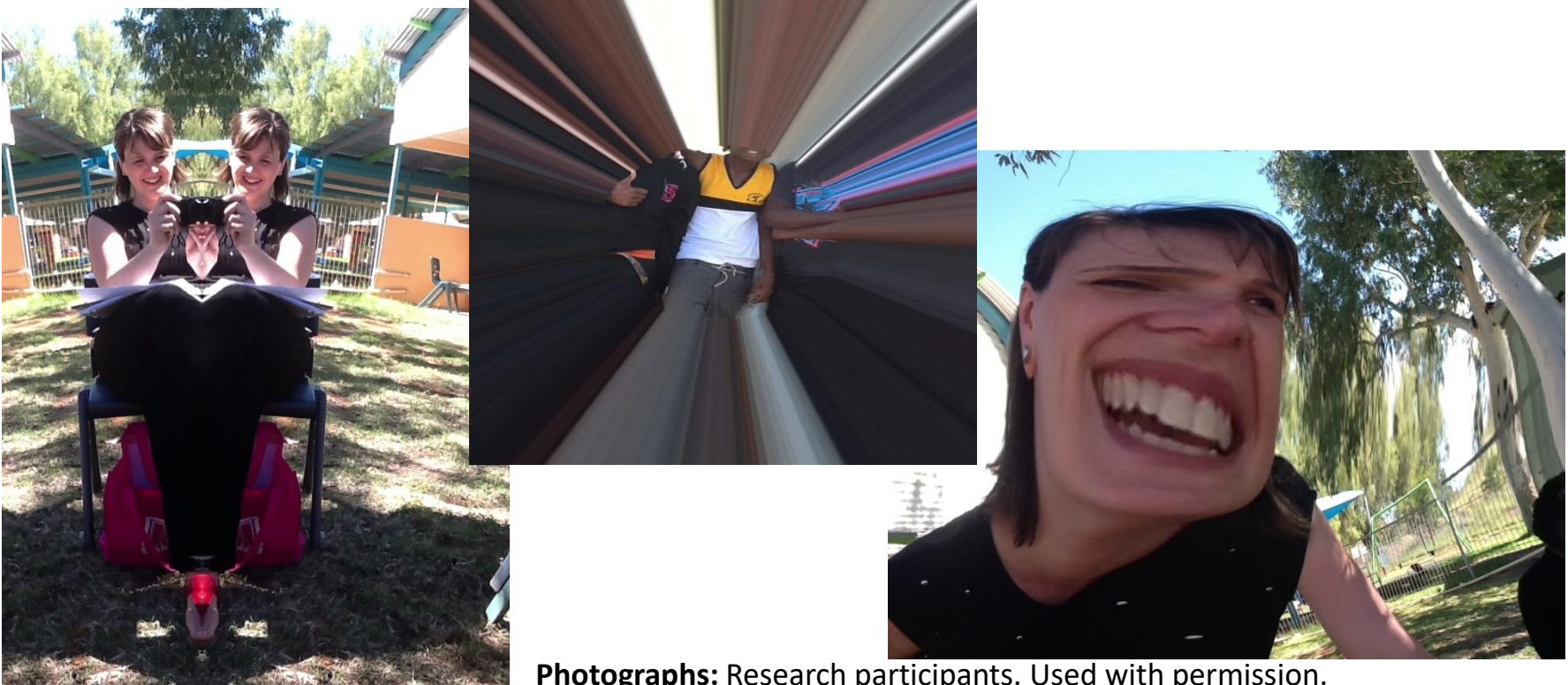
Source: <http://ps10ipads.wikispaces.com/>



Negotiate Reciprocity Arrangements



Make it FUN! 😊



Photographs: Research participants. Used with permission.

John Barker and Susie Weller, “Is It Fun?” Developing Children Centred Research Methods’ (2003) 23(1/2) *International Journal of Sociology and Social Policy* 33

Recommendation 1: *The Little Children are Sacred Report (2007)*



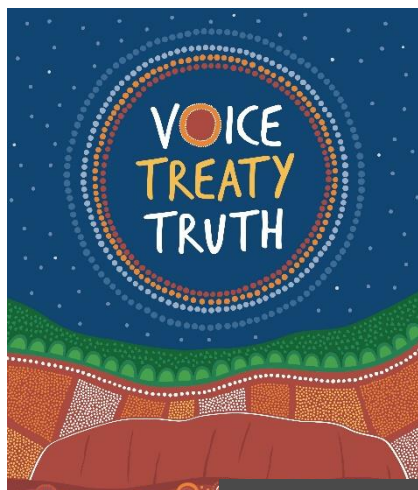
‘It is critical that governments commit to genuine consultation with Aboriginal people in designing initiatives for Aboriginal communities.’

Wild and Anderson, 2007: 22.

Coming in 2020

New Projects:

- ***'Voice. Treaty. Truth: Constitutionalism and Aboriginal Young People'***
- ***'Children's Participation in the Design of Legislation and Policy to End Gender-Based Violence (GBV): A Pilot Study in Fiji and Nepal'***



**Save the
Children**



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