

# Response to call for inputs to the Report of the Special Rapporteur on the Situations of Human Rights Defenders

November 2023

The Northern Ireland Commissioner for Children and Young People ('NICCY') was established under 'The Commissioner for Children and Young People (Northern Ireland) Order 2003 with the principal aim 'to safeguard and promote the rights and best interests of children and young people'.<sup>1</sup> As an independent human rights institution NICCY has a range of duties and powers to meet this aim and must have regard to the United Nations Convention on the Rights of the Child (UNCRC) in all its work.

The Commissioner may also make representations or recommendations to any body or person about any matter concerning the rights or best interests of children and young persons (CYP). Vitally, through the work of the NICCY's Youth Panel (NYP) and Engagement Panel there is ongoing work with CYP throughout Northern Ireland (NI), and the views and experiences of CYP inform the work of the Commissioner.

NICCY welcomes the opportunity to input to the Report of the Special Rapporteur on the issue of child and youth human rights defenders.

## Have child and young human rights defenders played an active role in the civil society of your country?

CYP across NI play an active role in civil society and continue to find their voice as Rights Defenders. CYP have been at the forefront of defending environmental and climate rights. They have also raised concerns over their education, access to healthcare, waiting lists, and mental health. For example, in 2019, 'Pure Mental NI' was established by two students to improve mental health awareness and education in schools, with a strong focus on youth involvement and engagement. In September 2023, Pure Mental NI and representative of the NI Youth Forum (NIYF) presented to the All Party Group on Mental Health at the NI Assembly at its inquiry into mental health education in schools.<sup>2</sup>

However, many CYP believe the UNCRC is not widely recognised or understood across their peer group, particularly amongst those who do not engage in youth organisations. They call for more work to be done to raise awareness of the UNCRC and to build a greater understanding of their rights.

## Is there a specific protection accorded to child and youth human rights defenders in your country, either as part of a law on the protection of human

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<sup>1</sup> Available at <[NICCY's legislation](#)>, accessed on 14/11/23

<sup>2</sup> Available at <[All Party Group on Mental Health | MindWise \(mindwisenv.org\)](#)>, accessed on 14/11/23.

**rights defenders, or through policies and action plans? Do child and youth human rights defenders have access to national and international protection mechanisms? Are there national, regional or international networks that you are part of?**

NICCY's role is to safeguard and promote the rights and best interests of CYP. NICCY's Legal and Investigations Team deal with queries and complaints from CYP, their parents or carers, about the service they receive from public bodies. This can include issues around education and health and provides help in various ways including advice, guidance, support and legal representation.

NICCY is a member of the European Network of Ombudspersons for Children (ENOC). Its aim is to facilitate the promotion and protection of the rights of children, as formulated in the UNCRC. The NYP is also a member of the European Network of Young Advisors (ENYA) and participates annually in initiatives. The British and Irish Network of Ombudsman and Children's Commissioners (BINOCC) links the four United Kingdom Commissioners and the Ombudsman for Children in the Republic of Ireland to promote and enable shared learning throughout the jurisdictions and for the discussion of issues of mutual concern which may affect the rights of CYP.

There is no specific protection that recognises the situation of children within national law on human rights defenders in Northern Ireland.

**Are child and young human rights defenders facing any particular risks or challenges? If so, provide examples.**

Access to information and resources is key for child and young human rights defenders. Feedback gained from young people through engagement in ENOC's statement on Children's Rights and the Environment highlighted a concern that young people did not have easy access to reliable information to properly act in their role as CHRDs and that they wanted accessible justice mechanisms to challenge rights breaches.

Poor data availability impedes the ability to effectively analyse decisions and their impacts on children's rights. For example, in the Executive Office's Report and Recommendations on the Outcomes of the Children's Rights Impact Assessment (CRIA) for this year's Budget and Spending Plans, the Department acknowledged that there is not sufficient robust data to determine impact on all Section 75 groups.<sup>3</sup> In NICCY's response to the CRIA, we noted only limited information is provided on what the cuts will mean in practice to the allocation against the programmes that will affect CYP. Departments do not collate or publish reports on public spending on CYP which causes further challenges.

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<sup>3</sup>[Report and Recommendations on the Outcomes of the Children's Rights Impact Assessment \(CRIA\) and Rural Needs Impact Assessment \(RNIA\) on the Executive Office's Spending Plans 2023/24 \(executiveoffice-ni.gov.uk\)](#)

The UNCRC has recommended a national strategy for awareness raising on children's rights, having confidential, child friendly and independent complaint mechanisms, legal support and representation and strengthening data collection to encompass all areas of the Convention, ensuring that this is disaggregated.<sup>4</sup>

A Bill of Rights for NI was one of the outstanding unmet commitments of the Good Friday Agreement and subsequently a commitment to consider this further was contained in the 2020 New Decade, New Approach Agreement.<sup>5</sup> NICCY supports the full implementation and incorporation of the UNCRC into domestic legislation, and believes that a NI Bill of Rights is an appropriate mechanism to achieve this.

The NI Government was suspended from January 2017 until January 2020, and again from May 2022. At the time of writing, there has been no return of the devolved administration. The lack of Executive has caused delays to legislative and policy reform in critical areas, including those services and areas affecting and supporting children.

The current NI Budget is also cause for concern due to the impact it will have on CYP with Departments are collectively facing the most challenging budget in recent history. The UNCRC has recently called for it to be withdrawn, to fully consider the equality and human rights implications of a new budget, taking all possible steps to mitigate any adverse impact on children's rights before issuing a revised budget.<sup>6</sup>

The impact of NI's recent history and the continuing divisions underlying it, significantly impact on the lives of many CYP in a multitude of ways. The communities most deeply affected by the 'Troubles' are also those in areas with the highest rates of mental ill health and child poverty, and the lowest levels of educational attainment. Segregation across society continues, through the housing and education systems and vulnerable CYP face intimidation and coercion from criminal gangs. There has been insufficient focus in the formal peace process to date on the impact of conflict on CYP.

The UK Government withdrawal from the European Union has also created challenges for CYP as rights defenders. The UNCRC has advised that an assessment of the impact of Brexit is conducted on the enjoyment of children's rights.<sup>7</sup> In 2017, the 'Our Brexit Too: Children's Rights, Children's Voices' event and report provided the opportunity for CYP to express the issues and concerns they had with Brexit, providing key recommendations to political representatives.<sup>8</sup>

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<sup>4</sup> UNCRC Concluding Observations 2023, p.3

<sup>5</sup> New Decade, New Approach, p.16. Available at < [2020-01-08\\_a\\_new\\_decade\\_a\\_new\\_approach.pdf](#) ([publishing.service.gov.uk](#))>, accessed on 13/11/23

<sup>6</sup> Ibid, p.3

<sup>7</sup> Ibid, p.2

<sup>8</sup> See: [Brexit Reports - Niccy](#)

Ongoing work as Rights Defenders can only occur if CYP feel safe to engage in this role. It should be of the utmost importance to the government to ensure that society and the culture enables young people to express their views without fear of harm or reputational damage.

**Are child and young human rights defenders systematically involved in the decision-making processes in public and political affairs in your country? Do you have dedicated platforms available in this regard? Are child friendly versions of laws and policies, as well decision-making processes available?**

There is much work to be done to ensure that CYP as human rights defenders are involved in decision making processes in public and political affairs in NI. In the last number of years some progress has been made. CYP and their representative groups frequently engage with elected representatives and Departments, and have presented to All Party Groups and Assembly Committees on legislative proposals and policies.

The NYP helps inform and work with the Commissioner in a wide range of areas. The NYP is made up of young people who share their experiences and thoughts with the Commissioner and their staff and help NICCY make decisions about issues that affect CYP. There are currently 57 members and a further 37 who engage regularly on an online engagement forum.

The NI Youth Assembly, established in 2021, is a group of 90 young people aged between 12 and 18. Members have three key areas of responsibility – to engage with MLAs and Committees to discuss new legislation or inquiries; to delve into topics and issues by joining specialised committees with other Youth Assembly Members and to amplify the youth voice. The term of the first cohort concluded recently, and their key priorities were education, environment, rights and equality and health.

The NI Youth Forum is a youth-led organisation that lobbies for and promotes the rights of young people. At local government level, several local Councils have or are recruiting members for their Youth Councils, via the Youth Voice program, aiming to engage with decision makers and have their voices heard.

There is an inconsistent approach taken by Government at all levels on child friendly versions of laws and policies, and a lack of information on decision making processes available publicly. There are examples of good practice, such as the Independent Review of Children's Social Care Services which was supported by Voice of Young People in Care.<sup>9</sup> In comparison, the consultation on Relationship and Sexuality Education launched by the Department for Education in September 2023, despite its importance for CYP, has not engaged with CYP, nor has a child friendly or CYP version of the consultation been made available. The consultation itself is not

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<sup>9</sup> See: [Health Minister announces Independent Review of Children's Social Care Services in Northern Ireland - VOYPIC](#)

widely accessible and there are gaps in details and data particularly in relation to engagement. It is NICCY's understanding that the Department has not engaged with the Youth Assembly, or any other forum with CYP directly and does not have any plans to fulfil its obligation to do so.

Some Departments have started to conduct Child Rights Impact Assessments (CRIAs) on new policies or legislation, but their use is minimal and not compulsory. Whilst equality screening is mandatory for practitioners and policy makers under Section 75 of the NI Act 1998, there is much work to be done to improve understanding, the process and what it entails.<sup>10</sup>

The CRIA is an approach which embeds children's rights considerations at the outset of developing legislation, strategies and policies. It is hoped that by applying the CRIA Framework at the outset, any negative impacts on CYP will be avoided or mitigated against at the earliest possible stage. The Children's Rights Impact Evaluation (CRIE) process provides an opportunity to consider the intended and unintended effects that the proposals and decisions have had on CYP after it has been taken. NICCY supports the incorporation of the CRIA tool within policy development in Government, alongside CRIEs, and has developed a training module on this for government policy makers.

### **Is human rights education provided in schools, and is human rights activism encouraged and supported in educational and academic settings?**

CYP rights are contained within the school curriculum from Key Stages 1 to 4 via Personal Development & Mutual Understanding and Learning for Life & Work curricula. However, this is not mandatory. The 2023 Concluding Observations recommended that children's rights education should become a mandatory part of the curriculum in all educational settings.<sup>11</sup> NICCY supports this change.

### **Are there any policies in place to limit the discretion of educational institutions to expel or otherwise sanction students for engaging in legitimate human rights activism?**

By law, all children of school age (aged four to sixteen) must receive a suitable full-time education and it is the parent's responsibility to ensure that they attend regularly. If a child is missing school without good reason, schools and the EA have the right to find out why. CYP can be referred to the Education Welfare Service for absenteeism, this can involve a home visit, engagement with social services and lead to possible prosecutions against parents as a last resort where parents fail to

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<sup>10</sup> Section 75 of the Northern Ireland Act 1998 requires public authorities to have due regard for the need to promote equality of opportunity between: persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation.

<sup>11</sup> UNCRC Concluding Observations 2023, p. 18

engage with the service and continue to ignore their child's educational and welfare needs.

Under a school's Behaviour Policy pupils can be sanctioned for their behaviour and in extreme cases, can be expelled. A group of 15-18 year old pupils have set up the Secondary Students Union of Northern Ireland to represent the views of members and provide advocacy for pupils who may face sanctions in their schools. NICCY are unaware of any policies in place to limit the discretion of educational institutions to expel or otherwise sanction students aside from this.

### **Are reporting systems for human rights violations accessible for child and young human rights defenders?**

A key role of NICCY is to provide a shadow report as part of the UNCRC Periodic Review of State Party reports, informing on the situation in NI, and through engaging directly with the Committee. The UN Committee issued its Concluding Observations on the UK in June 2023.

Every two years NICCY reports on the actions taken by Government to meet children's rights and best interests through our Statement on Children's Rights in Northern Ireland. The third statement was published in 2022 and it reported on a range of issues, including the impact of not having a stable, fully functioning government on children's rights. These reports are available online.<sup>12</sup>

It is disappointing to note that the UK Government has not ratified the Third Optional Protocol to the Convention on the Rights of the Child, and so has precluded young people from accessing this important route to report human rights violations to the UN Committee.

### **Is there awareness-raising among youth and child human rights defenders of existing mechanisms, platforms and protection mechanisms in place?**

UNCRC Concluding Observations 2023 acknowledged that there was relatively low levels of knowledge regarding the Convention among children and adults in the UK and recommended a national strategy of awareness raising be developed and implemented on children's rights. This should promote the active involvement of children in public outreach activities, as well as ensuring systematic training on children's rights is available.<sup>13</sup>

NICCY is currently developing an education programme for child human rights defenders using the implementation guide on CHRDs from Child Rights Connect.

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<sup>12</sup> See [Statement on Children's Rights in Northern Ireland 3 \(SOCRNI 3\) - 2022 - Niccy](#)

<sup>13</sup> *Ibid.*, p.4

## **Have you experienced negative media coverage of child and young human rights defenders?**

The current climate crisis has many implications for children's rights. Not only are the most basic rights at risk such as right to life, healthcare, education, food and protection but Government has not fully considered CYPs views and voices when making decisions about the environment and climate change.

Until 2021, NI was without specific climate change legislation and the growing concern on climate justice was echoed by many CYP. Thousands of students attended rallies and marches in NI in 2019, joining millions around the world, with many of them leaving school to do so. Whilst the strikes and protests have been supported and covered by the media, others have framed the protestors negatively, through the impact of 'missing' their education. A former NI education minister stated that it was 'irresponsible' for Amnesty International to call for NI schools to allow children to take part in the strikes.<sup>14</sup> At the time, PM Theresa May stated that the 'disruption increases teacher's workloads and wastes lesson time that teachers have carefully prepared for.'<sup>15</sup>

Respondents to a recent piece of research noted that some schools supported children to attend including providing transport and accompanying them on protests while others did not permit children to join.<sup>16</sup>

## **Have you had any successes as a result of your human rights activism, and if yes, what were they?**

All of NICCY's work could be considered human rights activism, and so we have had numerous successes as a result. Often this has been informed by the activism of Child Human Rights Defenders. For example, NICCY has recently intervened as a third party in the Clean Air NI case lodged by Friends of the Earth. NICCY works on Environmental Justice in response to the demands of children and young people, and is highlighting human rights concerns and the adverse health impacts that air pollution has on CYP.

During the pandemic NYP engaged regularly with the Chief Executive of the NI Council for Curriculum, Examinations and Assessment (CCEA) to raise concerns about well-being of pupils and the impact of lockdown on their education. CCEA consulted the panel about assessment during this period and as a result of their input made positive changes to assessment arrangements and the educational experience of CYP.

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<sup>14</sup> [Climate Strike: Amnesty 'irresponsible' for asking NI schools to allow pupils to protest, says former education minister \(newsletter.co.uk\)](#)

<sup>15</sup> [Theresa May criticises pupils missing school to protest over climate change | Politics News | Sky News](#)

<sup>16</sup> Available at <[2022-Synthesis-Report-Climate-Justice.pdf \(enoc.eu\)](#)>, accessed on 14/11/23

## **How could the Special Rapporteur on the situation of human rights defenders contribute to making your human rights work more visible, protected and highlighted?**

The UK Government's 2019 policy document 'UK Support for Human Rights Defenders' acknowledges the fundamental role they play in the realisation of human rights, gender equality, democratic spaces, and access to justice and peace, all key elements of the UK's foreign policy objectives. However, this did not address children as being rights defenders in and of themselves.<sup>17</sup> A report by Amnesty international, the Centre for Applied Human Rights and others proposed a UK Government strategy for support and protection of human rights defenders.<sup>18</sup> NI does not have a formal policy in place on human rights defenders. NICCY would support the formulation of such, with the recognition of the role of CYP as CHRDs in NI.

## **Is there anything else that you think it's important for the Special Rapporteur to be aware of?**

The NI context must also be considered, as we look at communities transitioning from dealing with legacy of conflict and the additional risks that poses to CYP rights, as well as the current absence of functioning government. As indicated above, there is concern that CYP rights have been eroded due to the UKs withdrawal from the European Union, given NI's unique position.<sup>19</sup>

As CYP increasingly communicate through online channels it would be useful to explore the particular vulnerabilities for CHRDs in the digital environment, including access to incorrect or potentially harmful information, exposure to exploitation and abuse, and new risks to CHRDs such as doxing, identity theft etc.

More information from NICCY and the NYP on CHRDs can be found here: [UN day of general discussion - Niccy](#)

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<sup>17</sup> Available at <[UK Support for Human Rights Defenders \(publishing.service.gov.uk\)](#)>, accessed on 14/11/23

<sup>18</sup> [Human rights defender strategy for the UK government | The Law Society](#)

<sup>19</sup> For more information, please see: [Brexit Reports - Niccy](#)