**Opening Remarks to the Ad Hoc Committee on the Bill of Rights - Koulla Yiasouma, NI Commissioner for Children and Young People – 2 July 2020**

Introduction

I would like to thank the Committee for giving us the opportunity to present to you this afternoon and welcome discussion on a child’s rights compliant Bill of Rights for Northern Ireland.

Children’s Rights Obligations

The United Nations Convention on the Rights of the Child (UNCRC) is celebrated as the most c*omplete* statement on children's rights ever produced, containing civil, political, socio-economic and cultural rights and is the *most* widely-ratified international human rights treaty in history. The UK Government signed the UNCRC in 1990 and ratified it in 1991.

I am obliged by the Commissioner for Children and Young People Order to have regard to the relevant provisions of the Convention when determining whether and how to exercise the functions of NICCY. It is therefore challenging and often frustrating that the relevant authorities we are advising and monitoring do not have the same obligation. A review of the NICCY legislation and incorporation of the UNCRC into domestic legislation will remedy this.

The Committee on the Rights of the Child has highlighted incorporation of the UNCRC into domestic legislation as a key means of implementation. Each time the Committee has examined the UK on the implementation of the UNCRC, it has expressed concern that the Convention has not yet been incorporated and emphasised that this must be rectified. The Concluding Observations of the Committee in 2016 linked the incorporation of the UNCRC to the Bill of Rights when it recommended to the UK that it should:

*“The Committee recommends that the State party: (a) Expedite bringing its domestic legislation, at the national and devolved levels as well as in the Overseas Territories and the Crown Dependencies, in line with the Convention in order to ensure that the principles and provisions of the Convention are directly applicable and justiciable under domestic law. (b) Expedite the enactment of a Bill of Rights for Northern Ireland, agreed under the Good Friday Agreement.”*

Children’s Rights and Northern Ireland’s ‘particular circumstances’

You will have seen from our written evidence paper that we have outlined the different ways that the “particular circumstances” influence every aspect of the lives of children and young people in Northern Ireland today.

While children and young people in Northern Ireland today have been born and grown up in a time of relative peace and stability, the impact of the ‘Troubles’ is still heavily felt. Segregation and community division continue to impact on the daily life for many children and young people. Every summer we can feel the tensions rising as children and young people often are caught up in civil unrest and become needlessly criminalised.

There is evidence that the high levels of persistent child poverty, mental ill health, educational and health inequalities exist in the areas that have suffered most as a result of the Northern Ireland conflict. Add to that the continued impact of armed and paramilitary style gangs who traumatise and abuse young people and their families through criminal coercion, exploitation and assault then it is clear that children and young people’s life chances and rights are deeply affected by living in communities who continue to feel the effect of the “particular circumstances” of Northern Ireland.

This has been echoed in the [Fresh Start Panel](https://www.northernireland.gov.uk/publications/fresh-start-panel-report-disbandment-paramilitary-groups-northern-ireland) report on addressing paramilitary activity in Northern Ireland where they clearly identify the need to address systemic societal issues in the areas of economic deprivation, segregated housing and education. It recognises that the “Troubles” are deeply embedded in Northern Ireland society and it is impossible to differentiate between disadvantage, a breach of rights and impact of the conflict, and makes recommendations accordingly.

A Bill of Rights provides an opportunity to recognise the unique circumstances of children and young people here, most notably as a result of the conflict, and to put in place a framework of rights to address this.

Children’s Rights and the UK exit from the EU

We note that the Committee is tasked to consider the implications of the UK exiting the EU when developing its proposals.

While there have been many developments in the Brexit process, the concerns of young people remain highly relevant and have yet to be allayed.

The Committee will be aware that along with our counterparts in the Republic we have worked with young people to articulate their concerns and have continued to monitor and advise on developments. There are a range of issues particular to the children of Northern Ireland, specifically that there can be no differences to the rights, opportunities and benefits enjoyed by young people who identify as Irish and those who identify as solely as British, as is their right to under the Good Friday Agreement.

It is imperative that the Northern Ireland Assembly takes the opportunity afforded by the Bill of Rights to protect children and young people from the negative effects of ‘Brexit’, including the changes on rights based on cultural and national identity.

**Covid-19**

The advent of the Covid-19 pandemic has thrown into sharp relief, the necessity to have robust child rights protection mechanisms in place. As we emerge from what may be the first phase of this pandemic, we are gaining a better understanding of the negative experiences of children, young people and their families. There are a number of issues to be considered, that a statutory child rights framework could address. These include:

* The right to services for families and children with a disability who have expressed feelings of being abandoned by the State;
* The impact on a child’s right to education;
* Children’s safety and well-being – although we have recognised that there may be a surge on referrals to mental health services we are also concerned that this may also be the case in child in need and child protection referrals; and
* The continuing use of emergency measures to dilute existing legal protections without clear evidence of the need or likely impact. For example the use of best endeavours to replace compliance with a child’s statement of special educational needs.

Developments in other jurisdictions

The Committee has already heard from Professor Simon Hoffman about developments in GB, notably the Rights of Children and Young Persons Wales Measure 2011, in Wales and of course the intention of the Scottish Government to incorporate the UN Convention into domestic legislation.

In view of the particular circumstances of Northern Ireland and the added challenges our children face it is incongruous that there is a potential that they may have fewer protections than their peers in Scotland and Wales as well as in the Republic of Ireland.

Importance of Incorporation in Realising Children’s Rights

The passing of the Children’s Services Co-operation Act in 2015 was a significant legislative development but falls short to what is required. The obligations under the Act should inform all of the work of Government Departments and Agencies and compels them to co-operate in order to improve the lives of children and young people. It also places a statutory obligation on Government to adopt a Children and Young People’s Strategy.

But a National Action plan and co-ordination are just two of the several measures that the Committee on the Rights of the Child believes are necessary to ensure the mainstreaming and implementation of children’s rights. Others include child’s rights impact assessments, data collection and indicators, child budgeting, training and co-operation and the provision of an independent human rights institution specifically tasked to monitor the implementation of the UNCRC.

Moving on. The Bill of Rights is intended to compliment the protections outlined in European Convention on Human Rights (ECHR) and incorporated into the Human Rights Act, 1998. Whilst it does of course, apply to children and young people, the ECHR does not have specific provision for children except in the protocol on education and even then it talks about persons. Relying on case law to fully test the ECHR’s application to children and young people is cumbersome and places a burden on our youngest and often most vulnerable members of the community. Therefore, when this Committee is considering rights supplementary to the ECHR it must make explicit provision for the UNCRC, ensuring that children’s rights are more explicit than they currently are.

But the real question has to be will inclusion of the UNCRC in a Northern Ireland Bill of Rights make a difference to the lives of children here? Will it ensure that we give our children the best start in life? If it doesn’t then there is no point and it’s another example of paying lip service to how important our children are.

Incorporating the UNCRC into domestic law will make it a key tool to improve outcomes for all children and young people in Northern Ireland. Its main value is not in the possibility of strategic litigation, but in the message it conveys about the status of children and the way it will be embed their rights into practice, policy and legislation.

It will no longer be an afterthought but central to everything that we do and makes explicit the framework that government will be using to inform its work.

Incorporation will not make unreasonable demands on the public purse and Article 4 of the Convention reminds states of the necessity to undertake all appropriate administrative, legislative and other measures to the maximum extent of their available resources.

The Committee on the Rights of the Child recommends that government understand how their spending decisions impact on the lives of children and young people and is confident that it is achieving the best outcomes for every pound spent. NICCY has a suite of resources on child budgeting which we can make available to the Committee should that be of assistance.

Conclusion

26 years on from the ceasefires and 22 years after the Belfast/Good Friday Agreement and despite not having lived through the Conflict, the impact of the ‘Troubles’ in Northern Ireland is still heavily felt by our children and young people. Segregation, community division, socio economic deprivation and trauma continue, to be part of daily life for many children and young people.

There has been insufficient focus in the Peace Process to date on the impact of the conflict on children and young people. Once it is accepted, and it has to be, that the “particular circumstances of Northern Ireland” impact the lives of every child then it is logical to conclude that the UNCRC with its established and internationally recognised status should then be the standard that the Bill of Rights sets for children and young people.

Similarly, regardless of support or not for Brexit, it must be accepted that there is a risk of diminution of rights between the North and South, and those who identify as Irish and British. There is an opportunity in the Bill of Rights to address these inequalities.

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NICCY can provide further information on any of the issues presented and will continue to work with Ministers, MLAs, Departmental Officials, NGOs and other Stakeholders to promote and safeguard the rights and best interests of all children in N.I.

Finally, I just want to say that in my role as Commissioner for Children and Young People I talk to children of all ages. When speaking about their rights to younger children I describe the UNCRC as a set of promises our government has made to them. Incorporating the UNCRC will show our children that their government intends to keep this promise.