

Presentation by NI Commissioner for Children and Young People, Koulla Yiasouma, to Westminster All Party Group on Children 23rd November 2015

Good afternoon I will be presenting on behalf of the Commissioners on two issues, Education and Youth Justice, and then will raise a number of issues specific to Northern Ireland.

Education

1. Exclusions

The Commissioners are concerned at the extent to which children continue to be **excluded** from schools across the UK. Particularly the lack of an individual right to appeal the majority of exclusions and the inappropriate use of 'informal' exclusions in respect of children with disabilities and special educational needs, children from black and minority ethnic communities and children from disadvantaged families.

Additionally we have concerns about the fact that children do not have individual appeal rights to special educational needs tribunals impacting heavily, in particular in children in alternative care,.

2. Bullying

Bullying within education remains a serious and widespread problem across the UK, and more recently, e-safety has become an increasingly concerning issue. It is incumbent on our governments to intensify their efforts to tackle bullying and violence in and outside of schools. Central to this is the need for compulsory teaching of human and children's rights, equality, celebrating diversity and strengthening the participation of children in all forms of education. We look forward to the Anti-Bullying legislation which is due to be laid before the NI Assembly at the end of the month.

3. Human rights education

Across the UK, there is little evidence of a systematic approach to raising awareness of

the UNCRC amongst professionals working with children, including teachers and also with children themselves. Knowledge and awareness of rights is fundamental to their realisation. Central and devolved governments should intensify their efforts to ensure that all schools include the Convention as a compulsory part of their curriculum and in training of all professionals working with and for children and young people.

There remain significant issues in the education system in NI which I will cover later.

Moving on to Youth Justice

1. Minimum age of criminal responsibility

Contrary to international children's rights standards, the repeated commentary of international children's rights bodies and vast amounts of research and evidence which says it should be otherwise, the **minimum age of criminal responsibility** remains extremely low across the UK. In England, Wales and Northern Ireland it is unchanged at 10 and in Scotland officially remains at 8 years. Raising the age is not about "letting young people get away with it" but ensuring that they are not sucked into a system that labels them and despite its best effort is not overly successful in diverting from further offending.

2. Privacy and disclosure of convictions

The right to **privacy** in criminal justice proceedings for children is not guaranteed particularly in England and Wales where a child is more frequently tried in adult courts than the other jurisdictions.

In the UK, **criminal records**, including spent convictions and diversionary disposals are subject to disclosure for employment, volunteering and training purposes. This has an extremely detrimental impact on the ability of young people to gain vital qualifications and employment experience. While developments in Northern Ireland and Scotland will limit these disclosures it will not be to a sufficient extent.

Young people should be allowed to apply to have their records cleared on their 18th birthday and this should be granted unless it is assessed to be in their or the public's best interests not to do so.

3. Number of children in custody.

Despite the overall decline in custody numbers of young people in the last 5 years or so, it remains the case that custody is not always used as a measure of last resort or for the shortest appropriate period of time. There are disproportionate numbers of black and minority ethnic young people in custody in England and Wales and looked after young people, young people with mental ill health and learning disabilities across all jurisdictions.

In Northern Ireland, for example, approximately 80% of children in custody are unsentenced either on remand or detained under the place of safety power due to a lack

of alternative suitable accommodation, although we are beginning to see some changes in this.

We would recommend that relevant governments during various reviews that have been commenced ensure that they understand their reasons for the disproportionate number of BME children, looked after children/care leavers, children with mental ill health and children with neurodisabilities in custody and take firm actions to address this.

4. Separation from adults in custody

The requirement of Article 37(c) of the Convention that children be separated from adults in all places of detention, except in their best interests, has not been fully implemented in all custodial settings.

5. Restraint

Restraint in children's custodial settings is not confined solely to circumstances where the child poses an imminent threat of injury to him or herself or others, and only when all other means of control have been exhausted. This must be addressed as a matter of urgency.

6. The Review of Youth Justice in Northern Ireland.

An Independent Review of the Youth Justice system in Northern Ireland, was published in September 2011 with the government accepting the majority of the recommendations. It identified a wide range of issues – identifying delay in children's cases as one of the most serious. It is critical that the Youth Justice Review recommendations are fully implemented and that particular attention is given to address the unacceptable delays in the system.

Child rights violations specific to Northern Ireland

Since coming into office in March of this year I have clearly stated that along with the full implementation of the UNCRC I have 3 key priorities which are child poverty, mental health and educational inequalities. Clear evidence exists which identifies these issues as some of the most challenging and in urgent need of reform in NI.

However I also needed to check with children and young people what they thought of these priorities, if there was anything we had missed and what they wanted from me as their new Commissioner. We talked to over 350 young people from the ages of 8 to 21 (in keeping with my remit) from across NI and from a variety of schools and groups. They confirmed that the issues we had identified were important but also raised a number of others which can be broadly summed up in the categories of safety and respect. Many young people do not feel safe to be who they are particularly if they are LGBT, the presence of paramilitary type organisations means many do not feel safe in their communities, the lack of respect from adults such as the PSNI, bus drivers and shop keepers makes everyday life uncomfortable and difficult.

The first phase of the 'Your Voice Matters' conversation culminated in a young people lead event to mark Universal Children's Rights Day last Thursday. Over 100 children and young people with a vast array of life experiences from across NI took part in the event. They indicated failings in the current system and through giving generously of their experience, clearly articulated what needs to change to improve the lives of all children and young people in NI. The event saw the inception of new campaigns which were designed by the young people themselves who will also be taking these forward, with when necessary my support. It has been a privilege to hear their stories and experiences and I am determined to ensure that our politicians and decision makers also hear their voices and respond to their calls in order to make life better for children in NI.

Building on what young people have said I do want to raise the particular circumstances in NI which impact on the implementation of children's rights in a number of key areas.

Segregated education in Northern Ireland

Despite the UN Committee's concluding observations in 2008, today in 2015 Northern Ireland's education system remains segregated on the basis of religion with only 7%

attending integrated schools. Since 1989, the Department of Education has had a statutory duty to “*encourage and facilitate the development of integrated education*”.¹ In addition, the Good Friday Agreement² contains a pledge “*to facilitate and encourage integrated education.*” I am concerned that the NI Executive’s recent focus on shared education falls short of integrated education and does not meet domestic legislative requirements and the recommendations of the Committee on the Rights of the Child. While I welcome the opportunities afforded by shared education for children to be educated together should be seen as part of the journey to educational change, the ultimate goal being a truly integrated system for all children in Northern Ireland, where children of all religions, races, genders, ability, sexual orientations and ages are educated together.

Academic selection which continues to receive special attention from the UN and numerous other bodies remains prevalent in Northern Ireland. While the official Transfer (11+) test was abolished, around two thirds of 10 and 11 year old pupils in Northern Ireland still sit one of two unregulated tests, which determines whether they attend a state “grammar” school. However there is a clear demarcation based on social economic background between those who do well in the test and those who do not.

Research consistently shows a link between Free School Meal entitlement³ and the Transfer Test grade. I and Research demonstrates that schools with more than 30% of pupils entitled to FSM are considerably less likely to have pupils receiving an A in the Test.⁴ This “grammar school effect” results in more pupils from more affluent families attending grammar schools and therefore gaining higher qualifications than children who attend non-selective schools. In 2014/15 94.5% of grammar school leavers left with at least five GCSEs at grades A* - C or equivalent including GCSE English and Mathematics. This figure was 44% for non-grammar school leavers.⁵

As I have already mentioned it was apparent from the YVM conversation, young people feel that they are demonised and treated disrespectfully within their communities and by the media. A survey of sixteen year olds in 2010 found that 79% believed that the media portrayal of young people was ‘mostly negative’. This must be addressed by the Northern Ireland Executive, as well as the UK government in its review of the BBC Charter.

¹ Article 64(1) of the Education Reform (Northern Ireland) Order 1989:

“It shall be the duty of the Department to encourage and facilitate the development of integrated education, that is, the education together at school of Protestant and Roman Catholic pupils”.

² Good Friday / Belfast Agreement 1998

³ as a proxy for poverty

⁴ What do we know? Educational Opportunities and Outcomes’. Available at: www.ark.ac.uk/publications/books/fio/10_fio-education.pdf

⁵ Statistical Bulletin Year 12 and Year 14 Examination Performance at Post-Primary Schools in Northern Ireland 2013-14, Department of Education, 11th December 2014.

Another strong theme from the YVM conversation was the poor standards of engagement with and participation of children and young people in decision and democratic making processes. Notably, there are no formal engagement structures at the Northern Ireland Assembly level, nor is there yet, a requirement on local councils to have shadow youth council. Young People made it very clear that although few of them wanted to enter politics they did want to engage with political processes and were frustrated at the limited opportunities to do this in a **meaningful** way.

This unacceptable discrimination against children and young people is also apparent in the development of policies and legislation. A very notable recent example is the development of forthcoming age discrimination legislation in accessing goods, facilities and services. Despite considerable engagement by my office and other stakeholders, the NI Executive has stated its intention to exclude children under 16 from the important protections of this legislation. This is in spite of a draft EU directive (2008/0140) on this very issue which proposes to ban age discrimination in accessing GFS for all age groups. In the rest of the UK legislation has been passed which exclude under 18s.

In accordance with the legislation establishing my Office, two review reports have been provided in 2007 and 2013 to the Northern Ireland Executive in relation to Paris Principles' compliance, and legislative barriers to the use of my powers. To date there has been no formal response to either of these sets of recommendations.

I would like to conclude with the overwhelming messages from the young people of NI which speaks to the particular circumstances. Whilst it might be argued that the armed conflict of NI is consigned to the history books, its impact and the divisions underlying it, continue to significantly affect the lives of our children and young people. It is no coincidence that we have a 25% higher prevalence of mental ill-health and higher rates of suicide and self-harm amongst our children. The areas most impacted upon by mental ill-health are also those most socio-economically deprived with high rates of disability and the lowest levels of educational attainment. These are the communities most deeply affected by the NI conflict. Ongoing sectarian divisions and violence continue to affect young people, who feel unsafe, marginalised and constrained. Reports of increased activity by non-state forces has been confirmed by young people across both communities who have stated that there is increasing recruitment to paramilitary organisations often through coercion or in payment for drug debts. Young people perceived to be involved in crime or anti-social behaviour are being excluded from their communities. This is something that I and the NI Commissioner for Victims and Survivors have agreed we will work together on.

Young people in the areas most impacted upon by the conflict are lacking in hope and opportunities which leads to serious consequences for the course of their lives with regard to their options they make and their mental health. NI has much higher rates of youth unemployment⁶, young people not in education, employment and training⁷ and persistent poverty⁸. It is for these reasons that measures suggested by this Parliament concerning welfare reform (particularly tax credits), the revision of the Child Poverty Act and the repeal of the Human Rights Act will be resisted by my office.

In conclusion many in this Parliament will understandably have switched off to the fragility of the political situation in NI with its annual crisis. However, it needs to work for the children of Northern Ireland who are living with the impacts of a conflict not of their making and which supposedly ended before they were born.

⁶ 18.7% 18-24 year olds versus UK av of 13.8%

⁷ 16% NEETS 16-24 year olds versus UK av of 12.2%

⁸ 21% of children living in persistent poverty in NI which is double the rate in the UK – Save the Children 2008