

Workshop 4

Living in Safety and with Stability



Children's Services Co-operation Act (NI) 2015

Well-being of children and young persons

1.—(1) **The functions conferred by this Act are to be exercised for the purpose of improving the well-being of children and young persons.**

(2) For this purpose the “well-being” of children and young persons includes—

(a) physical and mental health;

(b) the enjoyment of play and leisure;

(c) learning and achievement;

(d) **living in safety and with stability;**

(e) economic and environmental well-being;

(f) the making by them of a positive contribution to society;

(g) living in a society which respects their rights;

(h) living in a society in which equality of opportunity and good relations are promoted between persons who share a relevant characteristic and persons who do not share that characteristic.

(3) In this section “relevant characteristic” means a characteristic mentioned in any of paragraphs (a) to (d) of section 75(1) of the Northern Ireland Act 1998.

(4) **In determining the meaning of well-being for the purposes of this Act, regard is to be had to any relevant provision of the United Nations Convention on the Rights of the Child**

UNCRC Articles

– of which there are many and this list is not exhaustive!

Article 6: right to life, survival and development to the maximum extent

Article 9: children should not be separated from their parents unless it is necessary for their best interest

Article 18: parents or legal guardians have the primary responsibility for the upbringing of the child but government should provide adequate assistance

Article 19: government should take all measures to protect children from all forms of physical or mental violence, injury or abuse or neglect, maltreatment and exploitation

Article 20: a child deprived temporarily or permanently of his or her family environment shall be entitled to special protection and assistance

Article 21: the best interests of the child should be the paramount consideration in adoption

Article 22: a child seeking refugee status or who is considered a refugee shall receive appropriate protection and humanitarian assistance

Article 23: a child with disabilities should enjoy a full and decent life in conditions which ensure dignity, promote self reliance and facilitate the child's active participation in the community

Article 25: a child placed with competence authorities for the purposes of care, protection or treatment has the right to periodic review of the treatment provided

Article 34: government shall provide protection from all forms of sexual exploitation and abuse

Article 35: government should take all measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form

Article 36: government shall protect the child against all other forms of exploitation

Article 37: no child shall be subject to torture, or other cruel, inhuman or degrading treatment or punishment

Article 39: government should take all measures to promote physical and psychological recovery and reintegration of a child victim

UNCRC Articles

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason , as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

- States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

General Comments

Committee General Comment - a statement of the meaning and objectives of an article and insight into Government's obligations under articles.

For example:

- GC 6 on the treatment of unaccompanied and separated children outside their country of origin
- GC 8 on the right to protection from corporal punishment and other cruel or degrading forms of punishment (2006)
- GC 13 on the right of the child to protection from all forms of violence (2011)
- GC18 (joint with CEDAW) on harmful practices (2014).

See also Committee Guidelines and Days of Discussion, for example, 2010 Guidelines for the Alternative Care of Children.

Committee Concluding Observations 2008 – some examples

(emphasis added to illustrate the range of measures recommended to government)

29. The Committee recommends that the State party use all available resources to protect children's rights to life, including by **reviewing the effectiveness of preventive measures**. The State party should also introduce automatic, independent and public reviews of any unexpected death or serious injury involving children – whether in care or in custody.

42. Prohibit as a matter of priority all corporal punishment in the family, including through the **repeal of all legal defences**; ensure that corporal punishment is explicitly prohibited in schools and all other institutions and forms of alternative care; actively promote positive and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, with a view to raising public awareness of children's right to protection from all corporal punishment and to decreasing public acceptance of its use in childrearing; Provide parental education and professional training in positive child-rearing.

...Concluding Observations 2008

- 45 a) Intensify its efforts to render **appropriate assistance** to parents and legal guardians in the performance of their child-rearing responsibilities;
- (b) Avoid having children taken into alternative care as a result of low parental income;
- (c) Take into account in all measures **the views of children, and provide them with child-accessible complaint mechanisms** in all parts of the country;
- (d) Ensure support to children with one or both parents in prison, in particular to maintain contact with the parent(s) (unless this is contrary to their best interests) and to prevent their stigmatization and discrimination against them;
- (e) Monitor the status of children placed in kinship homes, foster care, pre-adoptive homes and other care institutions, inter alia through regular visitations;
- (f) Assess why so many children with disabilities are in long-term institutional care and review their care and treatment in these settings;
- (g) Facilitate the initiation of contact proceedings for all children separated from their parents and siblings, including those in long term residential care;
- (h) Provide training and education programmes to prepare children for adult life;
- (i) Take into account the Committee's recommendations issued at the day of general discussion on children without parental care, held on 16 September 2005.

...Concluding Observations 2008

47. The Committee recommends that the State party strengthen its efforts to facilitate a situation in which children, always **in their best interests, be adopted as speedily as possible**, taking in due account, inter alia their cultural background.
51. The Committee recommends that the State party:
- (a) Establish mechanisms for monitoring the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation, including within the family, in schools and in institutional or other care;
 - (b) Ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children;
 - (c) Strengthen support for victims of violence, abuse, neglect and maltreatment in order to **ensure that they are not victimized once again during legal proceedings**;
 - (d) Provide access to adequate services for recovery, counselling and other forms of reintegration in all parts of the country.

... Concluding Observations 2008

74. The Committee recommends that the State party intensify its efforts to collect **data on the extent of sexual exploitation and abuse** of children, essential to prepare adequate responses to and to combat these phenomena, including in the Overseas Territories. The State party should always consider, both in legislation and in practice, child victims of these criminal practices, including child prostitution, exclusively as victims in need of recovery and reintegration and not as offenders. The Committee also recommends that the State party **ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse**.

76. The Committee recommends that the State party provide the necessary resources for an effective implementation of the Anti-trafficking Action Plan. It also recommends that the State party ratify the Council of Europe Convention on Action against Trafficking in Human Beings and implement its obligations by ensuring that child protection standards for trafficked children meet international standards.

Your Voice Matters

Living in safety and with stability in Northern Ireland – young people talking to NICCY about the impact of the conflict, paramilitary threat and assault and the influence of paramilitary organisations on their lives.

Questions for Consideration

1. What are the issues affecting children generally that should be addressed under this outcome?
2. Are there specific issues affecting particular groups of children?
3. Where are the gaps in our knowledge?
4. What do children and young people think about this issue?
5. Who needs to be involved in addressing this outcome?
6. What other work is currently being taken forward in relation to this outcome?
7. Is it possible to focus down on a few initial priority areas for this outcome?