



Children as Human Rights Defenders

Submission to the UN Committee's Day of Discussion – July 2018

Introduction

Together (Scottish Alliance for Children's Rights) strongly supports the UN Committee's focus on empowering and protecting children as human rights defenders. Until recently, the use of the term 'human rights defender' has not been widely used in Scotland. The attention given to children as human rights defenders through the forthcoming Day of General Discussion has prompted various activities among Together's membership. These have explored children's experiences of being human rights defenders and promoted an increased understanding of the concept among adults and children alike. Many children are acting as human rights defenders and yet not framing their work in this way. Many others may wish to become human rights defenders but lack the knowledge, support and power that they need to do so. This submission will explore these different experiences, identify what is needed to empower and protect children as human rights defenders and set out some of the barriers that they face. Throughout this submission, 'children' refers to all children and young people under the age of 18 years-old.

Who should be recognised as a child human rights defenders?

Any child who promotes and strives for the protection and realisation of their own rights or the rights of others should be recognised as a human rights defender. This would be in line with the UN Declaration¹ and reflect the concept note to the Day of Discussion, which states that "*defenders are identified above all by what they do and not by who they are*". As human rights defenders, children should be afforded the rights and protections set out in the Declaration on Human Rights Defenders.

Children involved in rights-based organisations such as the Children's Parliament² and Scottish Youth Parliament³ tend to have a strong understanding of what a rights-based approach looks like and what a human rights defender is and does. Many of these children recognise themselves as human rights defenders at a local, national, regional and international level. Other children and young people are acting as human rights defenders, and yet are often unaware of the term and the international framework in place to support them.⁴ It is important that children who are acting as human rights defenders – and yet not referring to themselves in that way – are given equal recognition and protection.

What role do children play as human rights defenders in society?

When children are empowered to act as human rights defenders and are adequately protected, they are a powerful force for change. This has been widely evidenced by children across Scotland:

1 Article 1. UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Translation.aspx>

2 Children's Parliament. <https://www.childrensparliament.org.uk/>

3 Scottish Youth Parliament. <http://www.syp.org.uk/>

4 Article 12 (2018). I Witness: The Concluding Observations; Young people's views of the *UNCRC Committee's Concluding Observations* on the implementation of the *UNCRC* in the UK. http://www.article12.org/wp-content/uploads/2018/05/I-Witness_the-Concluding-Observation_2018_web.pdf [Date accessed: 1.7.18].

Supporting international scrutiny

Child human rights defenders can play a pivotal role in monitoring the implementation of international human rights instruments. For example, children from Scotland played a key role in promoting better protections for children's human rights through the UNCRC reporting process in 2016⁵. The Scottish Youth Parliament hosted a visit to Scotland from Amal Aldoseri, the vice-chair of the UN Committee. This offered an important opportunity for children to highlight concerns about the implementation of the UNCRC. Children held further meetings in Geneva with members of the UN Committee. As a result, the 150 Concluding Observations made by the UN Committee strongly reflected key issues for children growing up in Scotland, highlighting areas where child human rights defenders had spoken out about their experiences.

Monitoring implementation of human rights obligations at a national level

Following on from the 2016 UNCRC reporting process, child human rights defenders have taken a prominent role in monitoring the implementation of the government's human rights obligations. The First Minister chairs an annual Cabinet meeting with children to ensure their voices are taken into account in high-level decision-making.⁶ Through these meetings, children from the Children's Parliament and Scottish Youth Parliament have raised issues including the importance of listening to children, UNCRC incorporation, bullying, equalities, period poverty and mosquito devices. As a result, government ministers have agreed to take forward specific actions, including to *"...encourage more people, particularly children and young people, to be Human Rights Defenders"*⁷.

Promoting awareness and understanding of human rights

Recognising the power that children can have as human rights defenders, the Scottish Youth Parliament launched a campaign, Right Here, Right Now⁸, to ensure that children are aware of and understand their rights and are empowered to take action. Since October 2017, members of the Scottish Youth Parliament (MSYPs) have been calling on decision-makers to take a human rights-based approach to all policy-making, service provision, and planning, and ensure children's voices are at the heart of decisions affecting them. MSYPs have reflected that this campaign has helped to empower them to act as human rights defenders.

Promoting legislative change

The prominent role of child human rights defenders has contributed to the Scottish Government committing to take forward many recommendations highlighted by the UN Committee in 2016. For example, the Scottish Government has introduced a bill to raise the age of criminal responsibility from 8 to 12 years old⁹; committed to support a member's bill to give children equal protection from assault¹⁰; and commenced a *"...comprehensive audit on the most practical and effective way to further embed the principles of the UNCRC into policy and legislation, including the option of full incorporation into domestic*

5 Together (2016). State of Children's Rights in Scotland report, p.5 and 36. <http://www.togetherscotland.org.uk/pdfs/TogetherReport2016.pdf> [Date accessed: 1.7.18].

6 Scottish Government (2018). Annual Cabinet event with children and young people. <http://www.gov.scot/Topics/People/Young-People/families/youth-work-participation> [Date accessed: 1.7.18].

7 Scottish Government (2018). Second annual Cabinet meeting with children and young people. <https://beta.gov.scot/publications/second-annual-meeting-of-ministers-with-children-and-young-people/> [Date accessed: 1.7.18].

8 Scottish Youth Parliament (2018). About Right Here, Right Now. http://www.syp.org.uk/right_here_right_now [Date accessed: 1.7.18].

9 Age of Criminal Responsibility (Scotland) Bill. <http://www.parliament.scot/parliamentarybusiness/Bills/107986.aspx>.

10 <http://www.parliament.scot/parliamentarybusiness/Bills/104602.aspx>

law”.¹¹ Whilst there is still much more that needs to be done to fulfil children’s rights in Scotland, the involvement of child human rights defenders has definitely accelerated progress.

Defending rights in local communities

At a local level, individual child human rights defenders play just as important a role in their communities. An example from Scotland is that of Kit, an MSYP, who campaigned for the removal of ‘mosquito devices’ in his local area, in line with a 2016 recommendation from the UN Committee.¹² Through the use of Freedom of information (FOI) requests to local government, Kit highlighted the prevalence of the devices and successfully campaigned to have them removed from schools and a bus station. The local council is now considering banning Mosquito devices, ending their use anywhere in the local authority.¹³

Promoting rights in schools

Child human rights defenders can play an important role in schools. An example is that of Lucy, a 17-year-old living with a learning disability. She faced significant difficulties at school and was bullied and excluded. She wanted to educate her peers and build a more inclusive school environment. With support from her headteacher and ENABLE Scotland, a Scottish NGO, Lucy gave a presentation to the entire school on what it is like to live with a learning disability. Lucy says “...it will take time for people to learn that people who have learning difficulties are equal members of society but I hope that can happen so that other people don’t have to feel invisible”.¹⁴

What enables children to act as human rights defenders? What are the barriers?

Knowledge of rights

There is a clear link between the extent to which children are empowered to influence decisions that affect their own lives, and extent to which they are empowered to act as human rights defenders. There are many children with no awareness of their rights and lack power to assert their own rights.¹⁵ More marginalised children, including Gypsy/Traveller children, asylum seeking children and children with a disability, may not know about their rights or feel they have the power to claim them. Young asylum seekers have reported anecdotally that they do not think they have any rights.¹⁶ They speak of having no control over their lives and feel that this power lies in the hands of government. Young disabled people have spoken of the abuse and discrimination that they face, and say they need better awareness of their rights to feel empowered¹⁷ Workshops with Gypsy/Traveller children have found that many have no

11 Proposed Children (Equal Protection from Assault) (Scotland) Bill. <http://www.gov.scot/Publications/2017/09/8468/downloads#res-1>.

12 CRC/C/GBR/CO/5: Para: 37(a),(b)

13 Together (2017). State of Children’s Rights report 2017, p.33. http://www.togetherscotland.org.uk/pdfs/2017_Online_V11.pdf [Date accessed: 1.7.18].

14 Enable Scotland (2017). #IncludED in the Main?!, pg 8. <https://www.enable.org.uk/wp-content/uploads/2017/08/IncludED-in-the-Main-22-Steps-on-the-Journey-to-Inclusion.pdf> [Date accessed: 1.7.18].

15 Elsley, S.et al. (2013). Children and Young People’s experiences of, and views on, issues relating to the Implementation of the United Nations Convention on the Rights of the Child. Paragraph 3.1 & 3.13. <http://www.gov.scot/Resource/0042/00427287.pdf> [Date accessed: 1.7.18].

16 Year of Young People 2018 (2018). Blog: “you can’t judge anyone unless you have lived their experience”. <https://yoyp2018.scot/you-cant-judge-anyone-unless-you-have-lived-their-experience/> [Date accessed: 1.7.18].

17 Article 12 (2018). I Witness: The Concluding Observations; Young people’s views of the *UNCRC Committee’s Concluding Observations* on the implementation of the *UNCRC* in the UK. http://www.article12.org/wp-content/uploads/2018/05/I-Witness_the-Concluding-Observation_2018_web.pdf [Date accessed: 1.7.18].

knowledge of their rights.¹⁸ Young offenders have spoken of how their lack of empowerment results in a reduced understanding of their basic rights and entitlements.¹⁹ This shows how many marginalised children are a long way from being empowered to defend their own rights, let alone the rights of others.

Children repeatedly speak about the need to learn more about the UNCRC and how it affects their lives.²⁰ Child human rights defenders highlight the importance of adults around them understanding human rights.²¹ They identify other people's lack of interest or understanding of rights as a barrier to them playing a role as human rights defenders, as well as a lack of opportunity to learn about their rights and to voice their opinions. Other children who are not currently acting as human rights defenders have also reflected these views, including young Gypsy/Travellers, care experienced children, young carers experiencing mental ill-health and children with disabilities.²² There is a common view among children that they can only recognise the importance of their rights and feel empowered to speak out and defend them if they are given specific support.

As such, the first step in empowering children as human rights defenders is to support their free and meaningful participation in decision that affect their own lives. More needs to be done to raise awareness and understanding of human rights among children, and to build confidence and capacity to recognise and challenge rights violations. To counter the barriers that children face, there needs high quality, rights-based, accessible and ongoing training and support for all practitioners working with and for children, shaped by the experiences and voices of children themselves.

Spaces for children as human rights defenders

Child human rights defenders speak about the importance of creating a safe environment in which they feel able to discuss issues openly. Whether through a school, community group, in the family or in parliament, they value a space which is free from judgement and includes adults who understand the issues they face and have the skills needed to support their participation. Children highlight the role that civil society organisations and national parliaments can play to create these spaces. MSYPs report that their role as a democratically elected member of the Scottish Youth Parliament affords them greater respect and supports their role as a human rights defender. The Scottish Youth Parliament enables MSYPs to have their voices heard at a national level and opens up opportunities for MSYPs to undertake training and development and access resources that would not normally be available to most children.

On learning about the UNCRC and the 2016 Concluding Observations, children who are not currently acting as human rights defenders agreed that all the issues highlighted by the UN Committee were relevant to

18 Article 12 (2018). I Witness: The Concluding Observations; Young people's views of the *UNCRC Committee's Concluding Observations* on the implementation of the *UNCRC* in the UK. http://www.article12.org/wp-content/uploads/2018/05/I-Witness_the-Concluding-Observation_2018_web.pdf [Date accessed: 1.7.18].

19 Article 12 (2015). I Witness: the UNCRC in Scotland Young People's Voices, pg. 66. http://www.article12.org/wp-content/uploads/2015/06/IWitness2015theUNCRCinScotland_YoungPeoplesVoices.pdf [Date accessed: 1.7.18].

20 Elsley, S. et al. (2013). Children and Young People's experiences of, and views on, issues relating to the Implementation of the United Nations Convention on the Rights of the Child. Paragraph 3.1 & 3.13. <http://www.gov.scot/Resource/0042/00427287.pdf> [Date accessed: 1.7.18].

21 Children's Parliament (2017). What kind of Scotland? <https://www.childrensparliament.org.uk/wp-content/uploads/WhatKindofScotlandOnline2017.pdf> [Date accessed: 1.7.18].

22 Article 12 (2018). I Witness: The Concluding Observations; Young people's views of the *UNCRC Committee's Concluding Observations* on the implementation of the *UNCRC* in the UK, p.64. http://www.article12.org/wp-content/uploads/2018/05/I-Witness_the-Concluding-Observation_2018_web.pdf [Date accessed: 1.7.18].

their lives and would like to play a role in pushing government to take the recommendations forward.²³ Gypsy/Traveller children and children with disabilities said that they would like to participate in debate and scrutiny of often discriminatory practices²⁴ and would like to have access to the space, knowledge and resources needed to empower themselves to actively hold local and national government to account. This emphasises the importance of ensuring that spaces are created for all children who want to be human rights defenders, regardless of their age, socio-economic status, gender, culture, disability, sexual orientation or other status. As part of this work, the Scottish and UK Parliaments should involve child human rights defenders as a matter of routine, creating safe spaces to involve them in inquiries and evidence gathering and inviting child human rights defenders to give evidence (and allowing this to be given in creative ways, such as by video, through artwork, or visiting child human rights defenders outside Parliament).

Public attitudes

Children report that the attitudes of adults around them strongly influence their ability to act as a human rights defender. Negative attitudes – including those of parents, teachers, politicians, youth workers and the broader public - can inhibit children's abilities to act as human rights defenders. When adults are patronising, have low expectations or disregard children's views, it can act as a barrier to a child defending human rights. Some children speak about not being taken seriously because of their age. Negative perceptions of children were raised in the 2016 Concluding Observations from the UN Committee, who recommended that the UK take further steps to *"take urgent measures to address the "intolerance of childhood" and general negative public attitude towards children, especially adolescents, within society, including in the media."*²⁵ This Concluding Observation must be progressed if more children are to be empowered as human rights defenders.

Support in the digital environment

Children have highlighted how the digital environment supports their role as a human rights defenders²⁶, citing the benefits of being able to reach lots of people and being quick and easy to use. Children have highlighted how the offline and online worlds are two equal and intertwined aspects of their lives, and that human rights should apply equally whether in the social media sphere or out on the streets.²⁷ They say *"...we are still young people that need support and empowerment whether we are on our smartphone or in the classroom"*.²⁸ Children speak of the challenges they face in using the digital environment as a human rights defender, including online harassment and abuse.²⁹ A variety of factors mean that not all children have the same access to the internet, for example as a result of disability, rurality, income and parental

23 Article 12 (2018). I Witness: The Concluding Observations; Young people's views of the *UNCRC Committee's Concluding Observations* on the implementation of the *UNCRC* in the UK. http://www.article12.org/wp-content/uploads/2018/05/I-Witness_the-Concluding-Observation_2018_web.pdf [Date accessed: 1.7.18].

24 Article 12 (2015). I Witness: the *UNCRC* in Scotland Young People's Voices, pg. 45. http://www.article12.org/wp-content/uploads/2015/06/IWitness2015theUNCRCinScotland_YoungPeoplesVoices.pdf [Date accessed: 1.7.18].

25 CRC/C/GBR/CO/5: Para: 2.

26 Out of 21 MSYPs surveyed, 18 (86%) replied that they used the digital environment and 3 (14%) that they did not.

27 The 5Rights Youth Commission It is made up of 19 young people aged 14 to 21, with a wide diversity of backgrounds, experiences and abilities from across 12 different local authority areas in Scotland.

28 Pg 9 <https://d1qmdf3vop2l07.cloudfront.net/eggplant-cherry.cloudvent.net/compressed/7660b29ac3127d42c99bf394ed4c724c.pdf0>

29 Scottish Government (2016). Report of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion. <http://bit.ly/2eFc5H1> [Date accessed: 1.7.18].

restrictions.³⁰ It is clear that any steps taken to empower and protect children as human rights defenders need to be effective both on and offline.

What are the risks faced by children human rights defenders and what safeguards are needed?

Children say they cannot be expected to step in or put themselves at risk in a dangerous situation³¹. Instead they want to know how they can help and understand when they have the power to act on behalf of others and seek help.³² Child human rights defenders can be at risk when speaking out about rights violations, especially when they are speaking from personal experiences or when the child is in a vulnerable situation (such as asylum seeking children and children in the youth justice system). It is important that protections are in place to safeguard these children, including access to emotional support to help children cope with any challenges or consequences associated with speaking out. As such, all measures put in place to empower and protect children as human rights defenders are in line with General Comment No. 12 and the requirement that children “should never be coerced into expressing views against their wishes” and that “they should be informed that they can cease involvement at any stage.”³³

What legislation exists to support children as human rights defenders?

There are several legislative measures to further the UNCRC in Scotland although nothing that specifically supports the empowerment and protection of children as human rights defenders. Although the Children and Young People (Scotland) Act 2014 enshrines the UNCRC into Scots law for the first time, it falls far short of incorporation and makes no reference to the role of children as human rights defenders. It does, however, place a duty on Ministers to promote public awareness and understanding of the UNCRC.³⁴ The Scottish Government states this has the effect of incorporating Article 42 of the UNCRC into Scots law.³⁵ Wider legislation such as freedom of information law has supported some children in their role as human rights defenders, although knowledge of these legislative mechanisms is likely be low amongst most children.

30 5Rights (2017). Our Rights: How Scotland can realise the rights of children and young people in the digital world, pg 25. http://respectme.org.uk/wp-content/uploads/2017/06/Five_Rights_Report_2017_May-4.pdf [Date accessed: 1.7.18].

31 Children’s Parliament (2016). Children’s Parliament investigates bullying, mid-point review. <https://blogs.glowscotland.org.uk/glowblogs/cpinvestigates/files/2016/07/CPIInvestigatesMPRJune2016-1.pdf> [Date accessed: 1.7.18].

32 Children’s Parliament (2017). Children’s Parliament investigates bullying. <http://www.childrensparliament.org.uk/wp-content/uploads/CPIB2017NewspaperforWeb-1.pdf> [Date accessed: 1.7.18].

33 CRC/C/GC/12: Para 134(b).

34 Scottish Government (2014). Children and Young People (Scotland) Act: Part 1 Rights of children.

35 UNCRC Article 42 states that ‘State Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.’

Recommendations

- The UN Committee should meet regularly with child human rights defenders and make additional efforts to ensure that the UNCRC reporting process is accessible to children, especially those from marginalised groups.
- The UN Committee should make Concluding Observations that support children as human rights defenders.
- State Parties should ensure that children who want to be human rights defenders do not face discrimination and have equal opportunity to promote and strive for human rights, regardless of their age, socio-economic status, gender, culture, disability, sexual orientation or other status.
- State Parties should allocate resources to support child human rights defenders to engage with the UN Committee as a matter of routine, and ensure sustainable mechanisms are in place to empower children to monitor the implementation of the UN Committee's Concluding Observations.
- State Parties should put in place structures that empower child human rights defenders to monitor and scrutinise the implementation of international human rights obligations as a matter of routine. This should include the provision of resources to civil society organisations that facilitate safe spaces in which children are able to act as human rights defenders, including Children's and Youth Parliaments and youth groups.
- States Parties should do more to ensure children have sufficient awareness and understanding of human rights. This should include mandatory human rights education in all schools, accessible information on human rights for children of all ages and ensuring children who wish to become human rights defenders are able to access training to support them.
- State Parties should ensure that children have equality of access to the internet, are equipped with the skills and capacity needed to make use of digital technology, and that sufficient safeguards are in place to mitigate against risks and protect children from harm.
- State Parties should embed children's human rights into the professional training of all those working with and for children.
- State Parties should ensure child friendly information is widely available on the legislative mechanisms that support human rights defenders, such as freedom of information law and the right to peaceful protest.
- Parliaments should undertake further efforts to involve child human rights defenders as a matter of routine and in a child-friendly manner.

About Together (Scottish Alliance for Children's Rights)

Together (Scottish Alliance for Children's Rights) is an alliance that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) and other international human rights treaties across Scotland. We have over 380 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs. Our activities include collating an annual *State of Children's Rights* report to set out the progress made to implement the UNCRC in Scotland. The views expressed in this submission are based on wide consultation but may not necessarily reflect the specific views of every one of our member organisations.