

Committee for the Office of the First Minister and Deputy First Minister

IMPLEMENTATION OF THE UNCRC BY THE UK: NGO ALTERNATIVE REPORT

INTRODUCTION

The United Nations Convention on the Rights of the Child¹ is an international treaty that recognises the rights of the child (defined as persons up to the age of 18). It is the most widely ratified international human rights instrument. The Convention operates on 4 core principles, these are:

- Non-discrimination
- Devotion to the best interests of the child
- The right to life, survival and development; and
- Respect for the views of the child.

The Convention commits National Governments to protecting and ensuring the rights of children. In addition, National Governments are made accountable before the international community for this commitment. Implementation of the Convention is monitored by the United Nations Committee on the Rights of the Child² (hereafter, the “UN Committee”).

Section 1 of this paper summarises the arrangements for reporting on progress to the UN Committee by government in the UK and Northern Ireland. Section 2 briefly summarises the purpose and structure of an ‘alternative report’ submitted to the UN Committee by Non-Governmental Organisations (NGOs) in Northern Ireland. Section 3 outlines the format of the NGOs response to the ‘Concluding Observations’ made by the UN Committee in 2002. Section 4 summarises 45 continuing areas for concern for the NGOs. Section 5 summarises the NGOs main recommendations to government. The final section of the paper briefly summarises six new areas for concern for the NGOs and their recommendations for government.

1.0 REPORTING ON PROGRESS

National Governments that have ratified the Convention must provide regular reports to the UN Committee on the status of children’s rights in their countries. These periodic reports are reviewed and commented on by the UN Committee.

The Convention was ratified by the UK in 1991 and came into force in 1992. The UK government agreed to report back to the UN Committee on its implementation of the Convention after the first two years and subsequently every five years. To date, the UK has reported on three occasions over the period, the most recent in July 2007. The UK’s most recent report has, for the first time, been informed by specific reports relating to the particular circumstances of Northern Ireland, Scotland and Wales.

¹ <http://www.everychildmatters.gov.uk/files/589DD6D3A29C929ACB148DB3F13B01E7.pdf>

² <http://www.ohchr.org/english/bodies/crc/index.htm>

(See Research & Library Service's paper "*United Nations Committee on the Rights of the Child: Northern Ireland's report on the implementation of the UNCRC*"³ which discusses Northern Ireland's report compiled by the Office of the First Minister and deputy First Minister (OFMDFM)).

The UK is due to be examined by the UN Committee in September this year on progress in implementing the Convention across the UK. Prior to this, in June, the UN Committee will be holding a pre-sessional hearing with NGO's and Independent Human Rights Institutions. In March of this year the NGO sector in Northern Ireland submitted its 'alternative' report to the UN Committee for consideration during its scrutiny of the UK government report.

2.0 NGO'S ALTERNATIVE REPORT

The NGO alternative report was prepared by Save the Children NI and the Children's Law Centre informed by consultation with NGO's. It was endorsed by 40 organisations and a range of individuals which included academics and research specialists⁴. The report examines the extent of Northern Ireland's compliance with the principles and standards of the UNCRC. These principles are laid out in the UN Convention under 8 thematic clusters (see Section 3.0 of this paper).

The NGO alternative report notes progress in many areas since the last UK report to the UN Committee such as the establishment of a Children and Young People's Unit within OFMDFM and the establishment of a Commissioner for Children and Young People. It also notes the development of the ten-year *Children's Strategy* and a further range of strategies affecting the lives of children and young people.

The NGO alternative report also identifies a significant number of 'continuing areas for concern.' These are areas where the NGOs felt that the 'concluding observations' of the previous UN Committee (in 2002) have not been fully addressed by the UK and NI governments. In addition, six new areas for concern are noted in the report.

The continuing and new areas for concern are explained in some detail in the report and are followed by a number of recommendations. These recommendations are directed mainly to the NI Assembly and Executive; some are directed at the NIO, and some are addressed directly to the UK government.

3.0 ISSUES FOR CONSIDERATION

As stated earlier, the NGO alternative report is a detailed examination of Northern Ireland's compliance with the principles and standards of the UNCRC. It focuses on 45 'concluding observations' which were made by the UN Committee following its previous examination of the UK in 2002. In addition, 6 new areas for concern are identified. A clear and concise rationale is strongly asserted by the NGOs in relation to each 'area for concern', and is supported where appropriate, with statistics and other

³<http://assist.assemblyni.gov.uk/services/rsrchlib/research/reports/dept/ofmdfm/2008/campbell7408.pdf>

⁴ See pages 2 and 3 of the Report.

backup material. The Committee for OFMDFM may wish to view all of these 'areas for concern' as issues for its consideration.

The NGO report follows the 8 thematic clusters laid out in the Convention commenting on where NI and the UK have not, in the NGO's opinion, fulfilled compliance. The 8 thematic clusters are:

1. General measures of implementation
2. Definition of the child
3. General principles
4. Civil rights and freedoms
5. Family environment and alternative care
6. Basic health and welfare
7. Education, leisure and cultural activities
8. Special protection measures

4.0 CONTINUING AREAS FOR CONCERN

The alternative report includes a significant number (45) of areas of continuing concern to the NGOs. These are summarised as follows:⁵

1. The UK's continuing reservation to article 22 of the UNCRC which relates to the rights of asylum seeking and refugee children.

The NGOs believe the UK government is prioritising its immigration policy over its obligations to asylum seeking children, and that this results in discriminatory treatment of these children.

2. The UK's continuing reservation to Article 37c of the UNCRC which relates to the accommodation of children in custody.

The NGOs disagree with the UK government's assertion that in Northern Ireland "*only in very exceptional circumstances are children ever accommodated with adults*"⁶.

3. That government incorporates into domestic law in the UK and NI the rights, principles and provisions of the UNCRC.

The NGOs report that the provisions and principles of the UNCRC have not been incorporated into domestic law. They also assert that no comprehensive audit of existing legislation to ensure compliance with the Convention has been carried out in NI. They further note that a "child rights proofing tool" or framework for conducting child rights impact assessments regarding new legislation has not been developed⁷. The NGOs maintained that:

⁵ See pages 65 and 66 of the Report.

⁶ Page 6 of the Report

⁷ The Northern Ireland Commissioner for Children and Young People has developed a children's rights impact assessment tool based on the Scottish model.

“..the enormous potential created by the unique equality of opportunity duty imposed on public authorities by S75 of the NI Act 1998 has not been realised in respect of children and young people”⁸.

4. Resources – that government undertakes an analysis of all sectoral and total budgets to show the proportion spent on children.

The NGOs questioned government’s repeated assertion that it is not possible to provide a breakdown of expenditure on children in NI.

5. Co-ordination – that government assigns co-ordination of the implementation of the Convention to a highly visible and easily identifiable permanent body.

The NGOs welcomed the establishment of the Children and Young People’s Unit (CYPU) within OFMDFM but commented on the fact that co-ordination of the implementation of the UNCRC is not listed as one of its main responsibilities. In addition the report noted that the CYPU does not have a mandate to require cooperation from other government departments – and suggested that the Unit’s resourcing and staffing levels “are minimal”⁹.

6. Plan of action - that government expedites the adoption and implementation of a comprehensive plan of action for the implementation of the Convention.

The NGOs expressed concern that an implementation plan for the UNCRC has not been adopted although there had been an indication that the *Children’s Strategy for NI* would serve this purpose.

7. Independent monitoring structures – that government establishes independent human rights institutions in accordance with the Paris Principles¹⁰, to monitor protect and promote all the rights of the Convention.

The NGOs also welcomed the creation of the Commissioner for Children and Young People for Northern Ireland; however they noted that the legislation to create the role was not in compliance with the Paris Principles.

8. Data collection – that government establishes a nationwide system where disaggregated data are collected on all persons under 18 for all areas covered by the Convention.

The NGO report noted that the current UK Government Report to the UN Committee did not refer to how data collection has been addressed outside England. It stated that there is a failure in NI “to collect and analyse

⁸ Page 8 of the Report

⁹ Page 8 of the Report

¹⁰ The Paris Principles relate to the status and functioning of national institutions for protection and promotion of human rights.

*disaggregated data in respect of children's lives"*¹¹ as required by the Convention.

- 9. Regular reports and debate – that government develops regular reports in NI and for the whole State party; promotes wide public and parliamentary debate on them and in the UK Parliament and NI Assembly.**

The NGOs expressed dissatisfaction that regular reports on the state of children's rights in NI have not been developed.

- 10. Dissemination of information on the UNCRC – that government substantially expands dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels of government.**

The NGOs expressed concern that no political or parliamentary scrutiny or debate of the UN Committee's 2002 concluding observations has occurred. They also noted that the CYPU website has carried only minimal information about the UNCRC.

- 11. Training on human rights, including children's rights – that government develops systematic and ongoing training programmes on human rights, including children's rights for all professional groups working for and with children.**

The NGO report expressed concern about the absence of mandatory training in this area although NGOs have identified *"an outstanding need for mainstreamed training"*¹².

- 12. The right to non-discrimination - that government monitors the situation of children in particular those belonging to vulnerable groups who are exposed to discrimination.**

The NGOs expressed concern that the effectiveness of new legal protections may be potentially undermined by some exceptions, particularly in terms of protection against discrimination on grounds of sexual orientation in faith schools. The NGOs also expressed concern in relation to the experiences of children from ethnic minority families who may be experiencing discrimination despite anti-discriminatory legislation on the grounds of race.

- 13. Best interests of the child - that government adopts the best interests of the child as a paramount consideration in all legislation and policy affecting children, notably within the juvenile justice system and in immigration practices.**

¹¹ Page 10 of the Report

¹² Page 11 of the Report

The NGOs asserted that there has been a failure to ensure that legislation likely to impact on children is based on the principle of the best interests of the child as the primary consideration.

14. Right to life, survival and development – that government abolishes the use of plastic baton rounds as a means of riot control

The NGOs expressed concern that the Attenuating Energy Projectile (AEP)¹³ is available as a form of riot control. No evidence of a child impact assessment being carried out prior to its introduction was found by the NGOs.

15. Respect for the views of the child - that government takes further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children society, including in schools.

The report welcomed the proposals to establish a Northern Ireland Network for Youth and a Participation Network. The NGOs believed that an on-going evaluation and review process would be required to assess their impact. Hopes for long-term core funding were also expressed and that children and young people would be involved in the decision making process.

16. Civil rights and Freedoms - use of restraint and solitary confinement – that government reviews the use of restraints and solitary confinement in custody, education, health and welfare institutions to ensure compliance with the Convention.

The NGOs expressed reservations about the continued use of restraint in some circumstances in NI. There was concern that a review of the use of restraint in education, custody, health and welfare institutions has not been carried out.

17. Corporal punishment – that government with urgency adopts legislation to remove the ‘reasonable chastisement’ defence and prohibit all corporal punishment in the family and in any other contexts not covered by existing legislation.

The NGOs stated that at the continuance of the “reasonable chastisement” defence does not meet the recommendations made by the UN Committee in 2002. In 2007 the Council of Europe Commissioner for Human Rights was unequivocal in his view that physical punishment constitutes a clear abuse of human rights:

“..smacking children is not just a lesson in bad behaviour; it is a potent demonstration of contempt for the human rights of smaller, weaker people”¹⁴

¹³ In 2005 the UK Government gave a commitment to introduce AEPs into all UK police forces as a less lethal replacement for the L21A1 baton round. In March 2005, the NI Policing Board voted to endorse the Chief Constable’s decision to introduce the AEP for use by the PSNI. At the time of the Policing Board’s decision, a number of interested parties raised concern about the impact of AEPs on children. <http://www.nipolicingboard.org.uk/index/our-work/content-humanrights/content-lesslethal/content-aeps.htm>

¹⁴ Page 22 of the Report

18. Promotion of positive, non-violent forms of discipline – that government promotes positive, participatory and non-violent forms of discipline and respect for children’s equal right to human dignity and physical integrity involving children, parents and all those who work with and for them; carry out public education programmes on the negative consequences of corporal punishment.

The NGOs reported that professionals and practitioners have identified some resistance to non-violent forms of discipline indicating that on-going training and awareness-raising is necessary if positive parenting is to be effectively promoted and practiced in NI.

19. Alternative care – that government ensures consistent legislative safeguards for all children in alternative care, including those who are privately fostered.

NGOs expressed hope that Articles 3 and 12 of the UNCRC would be enshrined in any new legislative framework in relation to adoption services. They identified a need for improved provision and more positive outcomes for looked after children and care leavers.

20. Basic health – that government takes all appropriate measures to reduce inequalities in health and access to health services; promote breastfeeding; enforce the prohibition of female genital mutilations

The NGO report highlighted the difficulties faced by certain groups such as Travellers and minority ethnic communities in relation to access to basic health services. Despite the introduction of a Breastfeeding Strategy for NI it was felt by NGOs that much more action by government was needed to promote positive attitudes to breastfeeding among the public.

21. Adolescent health – that government takes all necessary measures to strengthen mental health services, ensuring that they are accessible and sensitive to adolescents.

The NGOs expressed concern that the *Mental Health (NI) Order 1986* makes no provision for the rights and best interests of children – by failing to incorporate the best interest principle, not providing a statutory right to independent advocacy, or the right to education for detained children. It also fails to require age-appropriate in-patient facilities to be provided for children, who are consequently often placed in adult facilities¹⁵. The lack of in-patient psychiatric facilities in NI means that some young people are sent to facilities in England. This has implications for their access to family life, education and work opportunities, social and leisure activities with friends. The NGOs endorsed all of the recommendations of the Bamford Review¹⁶ stating that they “*should be progressed without delay*”.

¹⁵ Page 29 of the Report

¹⁶ The Bamford Review was a review of mental health and learning disability. Its report on legislative reform was published in August 2007.

<http://www.rmhdni.gov.uk/legal-issue-comprehensive-framework.pdf>

22. Suicide – that government undertakes studies on the causes and backgrounds of suicides

The NGOs recommended government produces longer term strategies aimed at tackling the causes of suicide. They identified a need for implementation of effective practice both amongst the general population and those most at risk.

23. Teenage pregnancies – that government takes further necessary measures to reduce the rate of teenage pregnancies through making health education, including sex education, part of the school curricula, making contraception available to all children, and improving access to confidential and adolescent-sensitive advice and information and other appropriate support.

The NGOs saw the provision of formal relationship and sexuality education in Northern Ireland as limited and occurring “*within a context emphasising morality rather than informed choices, reinforcing the predominance of heterosexuality and reproduction*”¹⁷.

24. Lesbian, gay, bisexual and transgendered (LGBT) young people – that government provides adequate information and support to homosexual and transsexual young people.

The NGOs commented on research which has highlighted a lack of positive information and support for those who identify as LGBT, particularly within education and youth organisations.

25. Child poverty – that government takes all necessary measures to the ‘maximum extent of...available resources’ to accelerate the elimination of child poverty.

The NGOs expressed concern that an “*effective and coordinated poverty eradication strategy across the State party has not been developed*”¹⁸ They noted that although an *Anti-Poverty and Social Exclusion Strategy* has been drafted in NI it has not yet been approved by the Executive.

26. Youth homelessness – that government better co-ordinates and reinforces efforts to address the causes of youth homelessness and its consequences.

The NGOs reported that “*housing stress and homelessness are at record levels in NI*” It was noted that government in NI was developing legislative proposals to give priority status to homeless 16-17 year olds – and that the issue should be addressed “*as a matter of urgency*”¹⁹.

¹⁷ Page 30 of the Report.

¹⁸ Page 32 of the Report

¹⁹ Page 32 of the Report

27. Benefits and allowances for 16-18 year olds – that government reviews legislation and policies concerning benefits and social security allowances for 16 to 18 year olds.

The NGOs asserted that 16-17 year olds continue to experience age-based discrimination in relation to benefits and allowances. No automatic rights to social security exist for these young people. The NGOs perceived the nature of the minimum wage as contributing to child poverty as under-16s are not entitled and 16-18 year olds receive a lower rate than those over 18.

28. Article 12 in education – that government ensures that legislation reflect article 12 and respects children’s rights to express their views and have them given due weight in all matters concerning their education, including school discipline.

The NGOs reported only limited involvement of children in school policy making in Northern Ireland. They noted a number of key areas for change – for example, the lack of a culture of pupil participation, negative perceptions amongst staff about the ability of children to inform policy making, lack of training in different ways to involve children and young people, time constraints and organisational demands.

29. Suspensions and exclusions – that government takes appropriate measures to reduce temporary or permanent exclusion, ensures that children have the right to be heard before exclusion and to appeal against temporary and permanent exclusion, and ensures that children who are excluded continue to have access to full-time education.

The NGOs noted that currently there is no indication of when a mechanism of appeal against suspension from school will be introduced (as provided for under Article 32 of the *Education (NI) Order 2006*). The NGOs expressed a number of concerns in relation to alternative education projects, for example ad hoc, short term and unstable funding, minimal information sharing and that access to professional development courses for staff was not automatic.

30. Inequalities in educational achievement – that government takes all necessary measures to eliminate the inequalities in educational achievement and in exclusion rates between children from different groups and to guarantee all children an appropriate quality education.

Poorer children, Traveller children, children from minority ethnic communities and children with special educational needs and disabilities were identified by the NGOs as groups in NI which particularly need stronger measures by government to eliminate inequalities in their educational achievement.

31. Education of children in detention and care – that government ensures that children in detention have equal statutory right to education, improves education for children in care.

Concerns were expressed that children detained in custody do not have a legal entitlement to be educated within the NI curriculum. This is because the

NIO has responsibility for their education rather than the Department of Education.

32. Prevention of bullying and other forms of violence in schools – that government takes measures to set up adequate mechanisms to prevent bullying and other forms of violence in schools, and includes children in the development and implementation of these strategies.

The NGOs noted that few anti-bullying policies are developed in consultation with pupils. Bullying continues to be a major concern for the NGOs despite the establishment of an Anti-Bullying Forum²⁰.

33. Human rights education in school curricula and teacher training – that government takes into consideration the Committee's General Comment No 1 on the aims of education, includes the Convention and human rights education in the Curricula in all primary and secondary schools and teacher training.

The NGOs noted strong criticism about the lack of human rights/ children's rights education in the school curricula or within teacher training. Education practitioners in NI have said:

"...the culture in schools is fearing telling young people about their rights"²¹.

The UNCRC and education about children's rights were not explicitly included in recent revisions to the school curriculum contained within the *Education (Curriculum Minimum Content) Order (NI) 2007*.

34. Provision of integrated education – that government increases the budget for and takes appropriate measures to facilitate the establishment of additional integrated schools in NI to meet the demand of a significant number of parents.

The NGOs noted the segregated nature of most education in NI and expressed concern over lack of funding for integrated schools despite evidence of demand in some areas.

35. Use of detention for unaccompanied minors and asylum seeking children – that government refrains, as a matter of policy, from detaining unaccompanied minors and ensures the right to speedily challenge the legality of detention; always uses detention as a measure of last resort and for the shortest appropriate period of time.

The NGOs state that the ongoing reservation to Article 22 breaches a wide range of Convention rights for asylum seeking children. Serious concerns exist amongst the NGOs about the treatment of children and young people

²⁰ Membership of the Forum at March 2005 included Save the Children, Childline (NI), Parents Advice Centre, the five Education and Library Boards, Barnardo's, NSPCC, Teacher's Representatives, CCEA, Rainbow, NCH, Children's Law Centre, Disability Action, Contact Youth and CCMS.

<http://www.nicie.org/archive/anti-bullying.pdf>

²¹ Page 38 of the Report

who may be detained in police custody on arrival in NI and then transported to Dungavel in Scotland.

36. Access to services for, and fulfilling the rights of, refugee and asylum seeking children – that government ensures that refugee and asylum seeking children have access to basic services such as education and health, and that there is no discrimination in benefit entitlements for asylum seeking families that could affect children.

The NGOs noted that statistics about child refugees and unaccompanied minors in NI are difficult to source. Any data that is available from the British Home Office cannot be disaggregated by jurisdiction or by whether the child enters the country alone or with family.

It was also noted that the legislative remit of NICCY does not cover refugee and asylum seeking children.

37. Irish Travellers – plan of action – that government devise, in consultation and participatory process with Traveller groups and their children, a comprehensive and constructive plan of action to effectively target the obstacles to the enjoyment of rights by Traveller children.

The NGOs note that the PSI Working Group into Travellers and social inclusion commissioned by government has “largely been unimplemented”²². They also noted that the Equality Commission for NI found that only 4 out of 14 recommendations on education had been acted upon four years following the development of an action plan.

38. Economic exploitation, including child labour - that the government reconsiders policies regarding the minimum wage for young workers in light of the principle of non-discrimination.

The NGOs stated that there exist limitations for young people in the recently introduced *Employment Equality (Age) Regulations (NI) 2006* which does not prohibit age discrimination in service provision.

39. Sexual exploitation and trafficking – that government undertakes a study on the scope, causes and background of child prostitution; reviews legislation so as not to criminalise children who are sexually exploited; ensures that adequate resources are allocated to policies and programmes in this area.

The NGOs stated that a central source of information about the numbers of children and young people involved in sexual exploitation in NI does not exist. This has helped the problem to remain a hidden issue with the young people most in need unable to access services which could support them.

40. The administration of juvenile justice – that government establishes a system of juvenile justice that fully integrates into its legislation, policies and practices the provisions and principles of the Convention and other relevant international standards in this area.

²² Page 43 of the Report

The report notes that youth justice legislation, policy and practice in NI do not currently comply with relevant international standards. Concern was expressed that “..the behaviour and actions of children in NI are increasingly criminalised”²³.

The NGOs desired:

...greater emphasis... placed by government on early intervention, family support and community-based diversion from the criminal justice system using alternatives based on the child’s best interests.

41. Age of criminal responsibility – that government considerably raises the minimum age for criminal responsibility.

In NI the age of criminal responsibility continues to be 10 years.

42. New orders introduced by the *Crime and Disorder Act 1998* – ASBOs – that government review the new orders and make them compatible with the principle and provisions of the Convention.

The NGOs noted that ASBOs can apply to persons aged 10 and over – for behaviour which can be described as ‘anti-social’ but may not necessarily be criminal behaviour. The NGOs expressed deep reservations as to their use - as the definition of anti-social is subjective and a lower burden of proof is required because ASBOs are civil orders. NGOs in the children’s sector in NI were strongly opposed to the introduction of ASBOs and wish to see their use amongst children and young people withdrawn.

43. Detention of Children – that government ensures that the detention of children is used as a measure of last resort and for the shortest appropriate period of time and that children are separated from adults in detention, and encourages the use of alternative measures for the deprivation of liberty; reviews the status of young people of 17 years of age for the purposes of remand with the view of giving special protection to all children under the age of 18 years.

Concerns were expressed about the relatively high proportions (10% on average) of young people under 18 in NI compared to England and Wales (8% on average) who were sentenced to immediate custody between 1999 and 2004. The NGOs were of the opinion that custody is possibly not being used as a measure of last resort by the courts in NI.

44. Rights of detained children – that government takes all necessary measures, as a matter of urgency, to review the conditions of detention and ensure that all children deprived of their liberty have statutory rights to education, health and child protection equal to those of other children.

The NGOs wished to see a range of improvements introduced in relation to the care of detained children and young people. Concerns were raised in 2005 about severity of punishments in ‘special supervision’ units of the Youth

²³ Page 46 of the Report

Offenders Centre, the lack of formal records and evidence of support for young people held there.

45. Access to advocacy and complaint procedures for detained children – that government ensures that every child deprived of his or her liberty has access to independent advocacy services and to an independent, child-sensitive and accessible complaint procedure.

Complaints by children have only been monitored since 2006. This would be reinforced, in the opinion of the NGOs, by the introduction of an independent advocacy service for detained children and young people.

5.0 RECOMMENDATIONS FOR GOVERNMENT

The main recommendations for the NI Assembly and UK Government with respect to the NGOs 'continuing areas for concern' are summarised below²⁴:

CONTINUING AREAS FOR CONCERN	RECOMMENDATIONS
<p>A. General measures of implementation The continuing reservation to Articles 22 and 37c of the UNCRC</p>	<p>The UK Government should:</p> <ul style="list-style-type: none"> - immediately withdraw its general reservation to Article 22 (re refugee and asylum seeking children) - act to ensure that it meets the requirements of Article 37c (that every child deprived of their liberty is separated from adults) and withdraw its reservation.
<p>B. General measures of implementation of the UNCRC</p> <p>(a) Incorporation of the rights, provisions and principles of the UNCRC into domestic law;</p> <p>(b) Analysis of budgets to show the proportion spent on children and appropriately allocated resources;</p>	<p><u>The NI Assembly and Executive should:</u></p> <ul style="list-style-type: none"> - incorporate the provisions and principles of the UNCRC into domestic law, including legislating to make them justiciable in domestic courts, and develop a formal process to ensure that any new legislation affecting children is children's rights compliant - ensure that the proposed Bill of Rights for NI affords maximum protection for children's rights - ensure that Section 75 of the <i>NI Act 1998</i> is fully implemented by all public bodies in relation to children and young people - establish the necessary systems and mechanisms to enable routine disaggregated analysis of spending on children in all budget setting and allocation

²⁴ See pages 65 and 66 of the Report.

<p>(c) Co-ordination of implementation;</p> <p>(d) Plan of action for implementation;</p> <p>(e) Paris Principle compliant independent human rights institutions;</p> <p>(f) Collection of disaggregated data about all under-18s;</p> <p>(g) Regular reports and debate;</p> <p>(h) Dissemination of information about the UNCRC and its implementation;</p> <p>(i) Training on human rights, including children's rights</p>	<p>- ensure that funding allocated to children and young people is consistent with the proportion of under-18s requiring services, enables their rights to be fulfilled, is transparent within government budgets, and is spent only on children and young people for the intended purposes</p> <p>- amend the <i>Children's Strategy</i> to make it the explicit action plan for the implementation of the UNCRC and ensure that the CYPU has an adequate plan for the implementation of the UNCRC</p> <p>- ensure that the Children's Strategy and Action Plans progress children's rights in all aspects of their lives, and for all children – including vulnerable groups</p> <p>- amend the Commissioner for Children and Young People (NI) Order 2003 to ensure compliance with the Paris Principles</p> <p>- establish a system to collect disaggregated data about all under-18s, for all areas covered by the UNCRC, using a standardised methodology across depts; use this data to assess progress, design policies to implement the UNCRC and inform rights-based practice.</p> <p>- produce an annual report about the UNCRC & the state of children's rights in NI, which is the focus of a NI Assembly debate</p> <p>-develop & resource a comp. strategy to disseminate knowledge of the UNCRC to all children& young people, parents, the general public, all levels of government</p> <p>- ensure that training about children's rights, including all relevant international standards, is mandatory for all professionals working with/delivering services to children & young people, the court service/judiciary & policy makers (including civil servants).</p>
<p>C. General Principles</p> <p>(a) <u>Right to non-discrimination</u></p> <p>- the experiences of LGBT young people;</p> <p>- children from minority ethnic communities, including Travellers;</p> <p>-children with disabilities,</p> <p>- looked after children</p> <p>(b) <u>Best interests of the child</u></p> <p>- adoption as the paramount consideration in all legislation and policy affecting children</p>	<p>- Children's rights proof all current and new legislation to ensure it promotes equality of opportunity and does not discriminate against children</p> <p>- monitor enjoyment by children of their rights and take immediate, targeted actions to eliminate all forms of discrimination</p> <p>- legislate to ensure that the best interests of the child is the <u>paramount</u> consideration in all legislation & policy affecting children, and in any administrative/court/tribunal decisions made in respect of the child.</p>

<ul style="list-style-type: none"> - use of restraint and solitary confinement; - corporal punishment; - promotion of positive forms of discipline 	<ul style="list-style-type: none"> - ensure the equal protection for children from assault - legislate to remove the existing defence of 'reasonable punishment' under Article 2 of the law reform (<i>Miscellaneous Provisions</i>) (NI) Order 2006 - provide regulations prohibiting the use of physical punishment in a childminding settings - actively promote positive parenting, with public education campaigns highlighting the negative consequences of corporal punishments and alternatives - ensure that guidance about positive parenting is developed for professionals and parents, with funding from comprehensive alternative discipline training, advice and support - prohibit retention of DNA of under 18s by the PSNI in cases where there has been no conviction or caution - legislate to abolish the detention of children with adults within the criminal justice system. - legislate to prevent the use of psychiatric wards for the inpatient treatment of children and young people.
<p>E. Family environment and alternative care</p> <p><u>(a) Alternative care</u> - safeguards for children in NI in alternative care</p>	<ul style="list-style-type: none"> - ensure all necessary resources for, & effective collaboration between, government departments with responsibility for development & delivery of services for children & families - ensure that all families (in particular, lone parents, families living in poverty, parents of older children, migrant workers, parents of disabled children) have access to affordable, flexible, quality childcare services including: full & part time nurseries, playgroups, registered childminders, summer schemes, after school clubs - fully implement the recommendations in Care Matters in Northern Ireland & ensure that they are funded to the maximum extent of available resources - amend legislation to make independency advocacy a legal right for all the looked after children - ensure appropriate identification & assessment of needs (in particular: special educational needs, issues leading to challenging behaviour & mental health difficulties) for looked after children & care leavers - Develop & implement strategies to improve placement stability for children in care - promote recruitment of foster carers, with adequate remuneration - ensure that residential facilities are community based & that there are adequate differential & specialised residential placements

	<ul style="list-style-type: none"> - ensure development of person centred, resourced, individual care plans which emphasise each child's strengths & potential - ensure that professional training & staff development for those working with children in alternative care includes training on children's rights & emphasises their right to be involved in decisions affecting them & preparation for independent living.
<p>F. Basic health and welfare</p> <p><u>(a) Basic health:</u> - inequalities in health and access to health services;</p> <p>- breastfeeding</p> <p><u>(b) Adolescent health:</u> - mental health services;</p> <p>- suicide;</p> <p>- teenage pregnancies – provision of relationships and sexuality education,</p> <p>- access to contraception and</p>	<ul style="list-style-type: none"> - take all necessary steps to end inequalities in children's health and access to health services in NI, including in respect of Traveller children - promote and fund child-focused health services - ensure that information about available services for children & families is proactively communicated in appropriate forms to groups not currently accessing them (eg Travellers, minority ethnic communities) - ensure that pre- and in-service training of health professionals includes knowledge and understanding about children's rights, cultural diversity and anti-racist policy/practice, and the impacts of poverty on health - review and fully resource the <i>Breastfeeding Strategy for NI</i> & accompanying public education campaigns to assess why breastfeeding rates at six months are so low in NI, & promote positive attitudes to breastfeeding - introduce new children's rights compliant legislation relating to mental health, which addresses the vulnerabilities, needs & rights of children & young people - ensure that sufficient, identifiable, ring-fenced funding is allocated to mental health provision for all children & young people to fully implement the Bamford Review recommendations (including: access to school counselling programmes for all children & young people, including early years; CAMHS; preventative strategies across NI; intensive support within community based or hospital services; training of appropriate paediatric professionals - prioritise research to identify the causes of child & adolescent mental health problems in NI, including the legacy of the conflict & experiences of vulnerable groups (such as children & young people: with disabilities, living in poverty, in or leaving care, in conflict with the law, in custody, identifying as LGBT, who misuse substances) - ensure that health education, including relationships & sexuality education, is part of the curriculum in every primary & post primary school - ensure that contraception, sexual health services, & access to

<p>information/advice about sexual health;</p> <p>- provision of information and support to LGBT young people.</p> <p><u>(c) Standard of living:</u></p> <p>- child poverty;</p> <p>- youth homelessness;</p> <p>- benefits and allowances for 16-18 year olds.</p>	<p>confidential, free, age-appropriate advice/information/ support are available to all young people</p> <p>- ensure adequate provision of information & support to LGBT young people within health, education & youth agencies</p> <p>- ensure integration, co-ordination & full implementation of existing strategies through the <i>Children's Strategy</i></p> <p>- ensure that the Anti-Poverty and Social Exclusion Strategy includes child-focussed targets which address the impacts of poverty on education, health, employment opportunities; with regular monitoring & review of the strategy to assess whether & hoe it has improved outcomes for children</p> <p>- ensure that the standard & quality of social housing are improved</p> <p>- increase provision of affordable social housing (with priority need status for 16-18 year olds who are homeless and do not fall within the remit of social services)</p> <p>- ensure that 16-18 year olds are easily able to claim adequate non-discriminatory benefits & allowances</p> <p>- legislate to guarantee all children who work the same minimum wage as adults</p>
<p>G. Education, leisure and cultural activities</p> <p><u>(a) Education:</u></p> <p>- Article 12 in education;</p> <p>- suspensions and exclusions;</p>	<p>- ensure adequate funding for the provision of education without discrimination in NI</p> <p>- urgently implement plans to abolish academic selection by 2009</p> <p>- ensure that new post-primary school admissions criteria set by the Dept of Education provide quality of access to suitable educational provision for <u>all</u>, in accordance with Article 2 & Article 29 of the UNCRC</p> <p>- ensure that children are able to express their views & have them given due weight in all matters concerning their education, in accordance with UNCRC Article 12, including: school discipline, anti-bullying policies & procedures, suspension & exclusion procedures</p> <p>- ensure the child's right of appeal against suspension, as provided for under Article 32 of the Education (NI) Order 2006 (not yet enacted); legislate to extend existing rights of appeal to include an independent right of appeal for children & young people against expulsion & decisions relating to their special educational needs and/or provision in educational tribunals</p> <p>- fully resource independent advocacy & representation services for children experiencing difficulties in accessing education including in respect of suspensions, exclusions & tribunals</p>

<p>- inequalities in educational achievement;</p> <p>- education of children in detention and care;</p> <p>- prevention of bullying in schools;</p> <p>- human rights education in school curricula and teacher training;</p> <p>- provision of Integrated education.</p>	<p>- ensure the reduction of school exclusions, promote inclusion by continuing to pilot alternative methods of engaging excluded children in education & ensure availability of resources to fulfil the educational rights of excluded pupils</p> <p>- ensure that resources are appropriately allocated to address inequalities in educational attainment amongst disadvantaged groups, including: the poorest children, looked after children, children in custody, Travellers, children with disabilities & special educational needs, migrant children</p> <p>- extend publicly funded legal aid to ensure equality of access to legal advice & representation & the appropriate legal remedies avail through the Special Educational Needs & Disability Tribunal, Expulsions Appeals Tribunals and the courts for all children & young people whose right to education is infringed</p> <p>- ensure the independence & effectiveness, & promote the use, of the regional Dispute Avoidance & Resolution Service & (once operational) the Equality Commission NI Conciliation Service to deal with disputes arising from the SENDO legislation</p> <p>- ensure that children who are detained under the legal justice system enjoy equality of access to an effective education that is commensurate with their age, ability & aptitude</p> <p>- ensure that every school has procedures to tackle all forms of bullying (including that experienced by LGBT young people) & that staff are adequately trained in identifying, responding to & monitoring incidents; with frequent & effective monitoring & review by the Education & Training Inspectorate & the new Education & Skills Authority; ensure that inter-agency working continues to tackle bullying of children through the NI Anti-bullying Forum</p> <p>- ensure that primary & post-primary school curricula include education about human rights, children's rights and the UNCRC</p> <p>- ensure that initial & in-service teacher training includes knowledge about human rights, children's rights and the UNCRC, with clear guidelines/ competencies to enable schools to create a rights-respecting culture (monitored & evaluated by the Education & Training Inspectorate & the new Education & Skills Authority)</p> <p>-ensure that funding and provision are available to meet every child's choice in relation to attendance at Integrated or Irish-medium education.</p>
<p>H. Special protection measures</p> <p><u>(a) Asylum seeking and refugee children:</u> -use of detention for unaccompanied minors and asylum seeking children;</p>	<p>-ensure that all asylum seeking & refugee children enjoy the same rights & protections as all other children in the jurisdiction</p> <p>-legislate to ensure that asylum seeking & refugee children are included in frameworks for the assessment, care & protection of children in NI (ie UNOCINI, <i>Children (NI) Order 1995</i>, the <i>Children's</i></p>

<p>- access to services for, and fulfilling the rights of, refugee and asylum seeking children.</p> <p><u>(b) Children belonging to minority ethnic groups:</u> - Irish Travellers – plan of action</p> <p><u>(c) Economic exploitation:</u> - minimum wage for young people; - regulating the employment of children and young people</p> <p><u>(d) Sexual exploitation and trafficking:</u> - sexual exploitation and trafficking – scope, policies and programmes</p> <p><u>(e) The administration of youth justice:</u> - administration of youth justice;</p>	<p><i>Strategy, the remit of NICCY)</i></p> <p>-legislate to establish a statutory system of guardianship for all separated children</p> <p>-review legislation governing the employment of children in NI to ensure it adequately protects children & does not discriminate</p> <p>-remove the exception in the <i>Employment Equality (Age) Regulations (NI) 2006</i> to ensure that all children in employment are receiving the same minimum wage as adults</p> <p>-ensure that the employment of children & young people is effectively regulated; amend legislation to reflect the reality of life in NI & employment opportunities for young people.</p> <p>-establish mechanisms for proactively identifying young people at risk of, or experiencing sexual exploitation; develop multi-agency protocols enabling effective pathways of referral & provision of services</p> <p>-ensure provision of adequately resourced early intervention & intensive support services to address the complex needs of sexually exploited children & young people (including health, mental health, sexual health & relationship counselling, basic education, child protection, family support, substance misuse, safe accommodation, continuity of care</p> <p>-ensure that statutory agencies use existing legislation to criminalise the perpetrators of sexual exploitation & employ ways of securing prosecutions which do not rely on the evidence of the ‘victim’</p> <p>-ensure that professional training for those working with children & young people includes awareness about: the factors affecting those at risk of, or experiencing, sexual exploitation; relevant guidance & procedures; protection & promotion of their rights</p> <p>-ensure that NICCY has the power to promote & protect the rights of children who are the victims of sexual exploitation & trafficking, especially those coming from outside the jurisdiction</p> <p>-legislate to ensure that the best interest principle underpins all legislation, policy & practice pertaining to the administration of criminal justice relating to children & young people</p> <p>-ensure that there are effective children’s rights compliant alternatives to the criminalisation of children (including family support and community based diversion), which are in the child’s best interests. All progs should be effectively regulated & monitored to protect the child.</p>
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<p>- age of criminal responsibility;</p> <p>- Anti-Social Behaviour Orders;</p> <p>- detention of children;</p> <p>- rights of detained children;</p> <p>- access to advocacy and complaint procedures for detained children.</p>	<p>-ensure that all appropriate measures are taken to facilitate the participation & understanding of all children involved in criminal proceedings</p> <p>-ensure that all children have the right to be tried for a criminal offence in an appropriate setting & manner, having regard to the child's age, maturity, needs, vulnerability & understanding</p> <p>-legislate to ensure that Anti-Social Behaviour Orders are not used against children & young people</p> <p>-ensure that sentencing guidance, policy & practice incorporates the principle that custody should be used as a measure of last resort, for the shortest appropriate period of time</p> <p>-determine the reasons for the over-representation of specific groups in the youth justice system /custody & take immediate, targeted actions to address these inequalities</p> <p>-ensure that when denial of liberty is essential & unavoidable, young people in detention are separated from adults</p> <p>-ensure that the rights of detained children & young people are fully respected & protected, including their rights to: independent advocacy services; health, including mental health services; be educated within the formal schools curricula or educational / vocational training; child protection; accessible complaints procedures</p> <p>-ensure that the Police Ombudsman's Office provides a breakdown of complaints from under-18s, to assess the type & extent of complaints & any emerging patterns.</p>
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6.0 NEW AREAS OF CONCERN

Six new areas for concern to the NGO's are summarised below:

<p>"NEW AREAS FOR CONCERN" RAISED IN NGO REPORT</p>	<p>REASON FOR CONCERN</p>	<p>RECOMMENDATIONS</p>
<p><u>1.General principles</u>:<i>Right to life, survival and development:</i></p> <p><i>(a) use of Taser guns;</i></p>	<p>12 Taser guns have been purchased by the PSNI on a pilot basis. It has been suggested that some groups may be more vulnerable to the use of Tasers than others. See page 18 of the NGO report.</p> <p>NGOs working with children and young people expressed concern</p>	<p>That the NIO, PSNI and NI Policing Board should prohibit the use of Tasers against children and in circumstances where children and young people are present and at risk of being harmed.</p> <p>That the NIO, PSNI and NI Policing Board should ensure that</p>

<p><i>(b) use of children to gather low level intelligence</i></p>	<p>about the PSNI using children to gather low level intelligence within their communities. See page 18.</p>	<p>children and young people are not used as informers by the PSNI, and that operational guidelines concerning intelligence gathering are compliant with children's rights.</p>
<p><u>2. Civil rights and freedoms:</u> <i>Torture and other cruel, inhuman or degrading treatment</i></p> <p><i>(a) retention of DNA</i></p> <p><i>(b) use of adult services for children and young people</i></p> <p><i>(c) use of Taser guns</i></p>	<p>There was concern about the retention of children and young people's DNA in cases where no conviction or cautioning has followed. See page 23.</p> <p>There was concern that under current legislation, policy and practice children and young people are sometimes detained in adult services rather than child-specific provision. See page 23.</p> <p>See 1 (a)</p>	<p>That the NI Assembly and Executive should prohibit retention of DNA of under-18s by the PSNI in cases where there has been no conviction or caution.</p> <p>That the NI Assembly and Executive should legislate to prevent the use of adult psychiatric wards for the inpatient treatment of children and young people.</p>
<p><u>3. Family environment and alternative care:</u> <i>Family environment</i></p> <p><i>(a) support to parents in the performance of their child-rearing responsibilities</i></p> <p><i>(b) access to quality, affordable, age-appropriate childcare services</i></p>	<p>The NGOs desired a more 'joined up' approach by government departments in the development and implementation of children's services policies. They stressed that assistance to parents includes provision of maternity rights, paternity leave, appropriate family support services and protection of those considered 'at risk of significant harm'.</p> <p>Concern was expressed about government's action in relation to its responsibilities in respect of the provision of childcare.</p>	<p>That the NI Assembly and Executive should ensure all necessary resources for, and effective collaboration between, government departments with responsibility for development and delivery of services for children and families.</p> <p>That the NI Assembly & Executive should ensure that all families (in particular, lone parents, families living in poverty, parents of older children, migrant workers, parents of disabled children) have access to affordable, flexible, quality childcare services including: full & p-time nurseries, playgroups, registered childminders, summer schemes, after school clubs.</p>

<p><u>4. Education, leisure and cultural activities:</u> <i>Education</i></p> <p><i>(a) academic selection and criteria for admission to post-primary education</i></p> <p><i>(b) Irish-medium education</i></p>	<p>The current system was perceived to be discriminatory as regards the most disadvantaged and vulnerable children.</p> <p>There was concern in relation to demand for post-primary Irish medium education. See page 29</p>	<p>That the NI Assembly and Executive should urgently implement plans to abolish academic selection by 2009 and ensure that new post-primary school admissions criteria set by the Dept of Education provide equality of access to suitable educational provision for <u>all</u>, in accordance with Article 2 and Article 29 of the UNCRC.</p> <p>That the NI Assembly and Executive should ensure that funding and provision are available to meet every child's choice in relation to attendance at Integrated or Irish-medium education.</p>
<p><u>5. Leisure and cultural activities</u></p> <p><i>(a) play and leisure for all under-18s</i></p>	<p>It was felt that an action plan and adequate resources should be put in place to address the reduction in play opportunities for children to play outside, engage in outdoor activities and participate in their communities. See page 40.</p>	<p>That the NI Assembly and Executive should prioritise development and implementation of play policies for all children and young people</p> <p>- Increase investment in play and leisure facilities for children and young people of all ages.</p>
<p><u>6. Special protection measures: The administration of youth justice</u></p> <p><i>(a) Informed consent</i></p> <p><i>(b) Police Ombudsman</i></p>	<p>Informed consent was seen as an essential element of participation in proceedings under Article 12 & the child's right to a fair trial. NGO's questioned capacity within the criminal justice system to deliver the necessary information to children in custody.</p> <p>NGOs expressed concerns in relation to children's ability to make complaints about the police.</p>	<p>That the NI Assembly & Executive should ensure that all appropriate measures are taken to facilitate the participation and understanding of all children involved in criminal proceedings.</p> <p>That the NI Assembly & Executive ensure that the Police Ombudsman's Office provides a breakdown of complaints from under-18s, to assess the type & extent of complaints and any emerging patterns.</p>