

**NGO ALTERNATIVE REPORT  
ON THE IMPLEMENTATION OF THE CONVENTION ON THE  
RIGHTS OF THE CHILD IN THE UNITED KINGDOM**

**SUBMITTED TO THE UN COMMITTEE ON THE RIGHTS OF  
THE CHILD ON 15<sup>TH</sup> MARCH 2002**

**BY**

**CHILDREN IN WALES (PLANT YNG NGHYMURU) AND SAVE THE  
CHILDREN (ACHUB Y PLANT CYMRU)  
CHILDREN'S LAW CENTRE AND SAVE THE CHILDREN IN  
NORTHERN IRELAND  
CHILDREN'S RIGHTS ALLIANCE FOR ENGLAND  
SCOTTISH ALLIANCE FOR CHILDREN'S RIGHTS**

**THIS REPORT WAS COMPILED AND WRITTEN BY DR URSULA KILKELLY ON  
BEHALF OF THE AGENCIES LISTED ABOVE**

**Scotland: Scottish Alliance for Children's Rights (SACR)**

SACR has wide membership of both organisations and individuals concerned with children's rights. It works to promote the full implementation of the Convention on the Rights of the Child in Scotland.

**Contact:** Alison Davies, Scottish Alliance for Children's Rights, 7<sup>th</sup> Floor Haymarket House, 8 Clifton Terrace, Edinburgh. Telephone 0044 131 527 8200 Fax 0044 131 527 8201.

E Mail: [A.Davies@scfuk.org.uk](mailto:A.Davies@scfuk.org.uk)

**Northern Ireland: The Children's Law Centre and Save the Children**

**The Children's Law Centre** is an NGO that was established in 1997, which aims to help young people, their parents and professionals work with and understand the domestic and international laws which affect children and their rights.

**Contact:** Paddy Kelly and Teresa Geraghty, The Children's Law Centre, Philip House, 123-137 York St, Belfast, BT15 1AB. Telephone 0044 28 902 45704 Fax 0044 28 902 45679

E Mail [paddy.kelly@childrenslawcentre.org](mailto:paddy.kelly@childrenslawcentre.org) and [teresa.geraghty@childrenslawcentre.org](mailto:teresa.geraghty@childrenslawcentre.org)

**Save the Children** is the UK's leading international children's charity, working to create a better future for children.

**Contact:** Sheri Chamberlain, Save the Children, Popper House, 15 Richmond Park, Belfast, BT10 0HB. Telephone 0044 28 90431123. Fax 0044 28 90431314.

E Mail [s.chamberlain@scfuk.org.uk](mailto:s.chamberlain@scfuk.org.uk)

**England: Children's Rights Alliance for England (CRAE)**

CRAE is a coalition with over 180 members drawn mainly from the voluntary sector whose objective is to promote the fullest implementation of the Convention on the Rights of the Child.

**Contact:** Carlyne Willow/Veronica Plowden, Joint National Co-ordinators, Children's Rights Alliance for England, 319 City Road, London EC1V 1LJ

Tel 00 44 20 7278 8222; Fax 00 44 20 7278 9552

E Mail: [cwillow@primex.co.uk](mailto:cwillow@primex.co.uk) and [veronica@plowden.demon.co.uk](mailto:veronica@plowden.demon.co.uk)

**Wales: Children in Wales and Save the Children****Children in Wales/ Plant yng Nghymru**

Children in Wales is the national umbrella organisation for 225 individuals and organisations working to promote the interests of children and young people in Wales.

**Contact:** Catriona Williams, Children in Wales, 25 Windsor Place, Cardiff CF10 3BZ

Telephone 0044 2920 342434 Fax: 0044 2920 343134

E Mail [catriona.williams@childreninwales.fsnet.co.uk](mailto:catriona.williams@childreninwales.fsnet.co.uk)

**Save the Children (Wales)/ Achub y Plant (Cymru)**

**Contact:** Richard Powell, Save the Children, Phoenix House, 8 Cathedral Road, Cardiff CF1 9LF Telephone 00 44 2920396838 Fax 0044 2920 227797

E Mail [R.Powell@scfuk.org.uk](mailto:R.Powell@scfuk.org.uk)

## Introduction

1. The aim of this report is to present to the Committee on the Rights of the Child NGO concerns regarding implementation of the Convention throughout the four UK jurisdictions of Northern Ireland, Scotland, Wales and England. It is based on the four alternative reports submitted by the NGO coalition in each jurisdiction and references is made to these reports throughout.<sup>1</sup>

## I. General Measures of Implementation

### Reservations

2. Despite the Committee's concern about the compatibility with the Convention's object and purpose of the UK's wide-ranging reservation on immigration and citizenship,<sup>2</sup> the Government refuses to remove its reservation.<sup>3</sup>
3. The reservation to article 37(c) on young offenders<sup>4</sup> allows children in custody to be housed with adult prisoners for reasons other than the child's best interests. Although the Government has pledged to take children out of the adult prison system, this still happens.<sup>5</sup>

### Recommendation

4. The Government should commit itself to the withdrawal of its reservations within a definite time frame.

### Ratification of related international instruments

5. The two optional protocols to the Convention on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography, have been signed but not yet ratified by the UK. The Government's declaration relating to the former Protocol dilutes children's right to protection from direct involvement in hostilities.
6. In March 2000 the UK ratified ILO Convention No. 182 on the Worst Forms of Child Labour.

### Recommendation

7. The UK should ratify the two Optional Protocols to the Convention without reservation.

### International development aid

8. The current level of UK overseas development assistance is 0.32% of GNP (0.3% in 1990). Although the Government has committed to raising this to 0.33% in 2003-2004, it still falls far short of the UN target of 0.7% of GNP to be spent on international development assistance and is currently below the European average.<sup>6</sup>

### Recommendation

9. The UK Government should commit itself to more than doubling its current level of overseas development aid, to the UN target of 0.7% of GNP, by 2003-2004.

### Review of Legislation

10. The Government has not carried out any systematic or continuous review of the compatibility of domestic legislation, policy and practice with the Convention.

### Recommendation

11. Government should undertake a detailed and ongoing review, with an independent element, of the compatibility with the CRC of all legislation affecting children.

### **Status of Convention in Domestic Law**

12. The Convention on the Rights of the Child has no legal status in the law of the United Kingdom and there is currently no commitment to incorporating either its principles or provisions.
13. The Human Rights Act 1998 (HRA), which came into force on 2<sup>nd</sup> October 2000, incorporates the rights of the European Convention on Human Rights (ECHR) into domestic law. In particular, the HRA requires all public authorities to act in a manner consistent with ECHR rights, requires courts to take the case law of the European Commission and Court of Human Rights into account in relevant cases and, insofar as it is possible to do so, read legislation in a manner compatible with ECHR rights. All legislation passed by Parliament must be accompanied by a statement setting out that in the view of the Minister it is compatible with ECHR rights or alternatively, that the government nevertheless wishes to proceed with the legislation.
14. Despite the gaps in the protection which the ECHR offers children's rights, the HRA is welcome. However, the Government does not appear to be committed to ensuring that children's rights under the ECHR or otherwise are fully protected in law. For example, there is evidence that proposed legislation dealing with the right of adopted adults to access information and child curfew legislation may be incompatible with the ECHR.<sup>7</sup>
15. A Bill of Rights drafted by the Northern Ireland Human Rights Commission (NIHRC) pursuant to the Belfast Agreement proposes the recognition of the rights of children and young people. In particular, it enshrines the principles in Articles 2 and 12 CRC and also contains provisions relating to the rights of children in the family and in the care, justice and education systems. While public consultation on the Bill of Rights is still on-going it is the Government which will eventually determine whether the proposals are adopted and what legal status, if any, the Bill of Rights will have.

### **Recommendations**

16. Government should commit itself to incorporating into domestic law the principles and provisions of the CRC.
17. Guidance should be issued to all courts, tribunals and public authorities to consider the CRC and other relevant international human rights treaties whenever decisions are made that affect children.

### **National Strategies for Children**

18. While there has been some progress in the development of strategies for children at national level, the Convention has not been used as a framework except in Wales.
19. The Scottish Minister for Education and Young People has issued a Child Strategy Statement requiring government departments to consider how legislation impacts on children. This analysis is not based on the framework of the Convention, however, and NGOs are concerned that it has not worked as an effective tool for child-proofing policy and legislation.<sup>8</sup>
20. In England, the Children and Young People's Unit has launched a consultation on the development of a children's strategy. However, although the Convention is briefly mentioned in the consultation document, it is not being used as the framework for the process.
21. Northern Ireland is currently developing a Children's Strategy, which is being co-ordinated by the Children and Young People's Unit within the Office of First and Deputy First Minister. A consultation on the strategy will take place over the next twelve months.

22. More positively, the National Assembly for Wales has developed a Strategy for Children and Young People, which provides that the Convention 'should provide the foundation of principle for all dealings with children'. Although it has shown a commitment to introducing the Convention in its policy documents, it has not formally adopted it.

### **Recommendation**

23. In the four UK jurisdictions and at all levels of government, policy development, overarching children's strategies and planning mechanisms should be rights-based, and use the CRC as their framework.

### **Responsibility for and Co-ordination of Implementation**

24. NGOs have serious concerns about the lack of strategic UK wide and national co-ordination and monitoring of the implementation of the Convention and co-ordinated protection of children's rights generally.
25. Major constitutional change has recently taken place in the United Kingdom. In accordance with the *Scotland Act 1998*, the *Government of Wales Act 1998* and the *Northern Ireland Act 1998*, varying degrees of power have been devolved to Assemblies in Northern Ireland and Wales, and a Parliament has been established in Scotland.
26. While devolution is welcome in principle, it has led to greater divergence in efforts to implement the Convention and protect children's rights. Concerns about the co-ordination of such efforts are heightened by the fact that power has not been distributed evenly and, for example, the Scottish parliament enjoys greater control over its domestic affairs than Assemblies in Northern Ireland and Wales.
27. On a positive note, however, these regional governments have developed important initiatives in the protection of children's rights and in some areas, detailed below, they are showing the way. It is important, therefore, that any good practice is identified and shared so that positive approaches can be implemented by other national authorities and on a UK wide basis, as appropriate.
28. Pursuant to the Belfast Agreement, a North-South Ministerial Council has been established to bring together ministers from Northern Ireland and the Republic of Ireland to develop consultation, co-operation and action within the island of Ireland on matters of mutual interest. The potential of this body to enhance the protection and promotion of the rights of children on the island of Ireland should be maximised. The similar potential of the British-Irish Council, whose membership includes representatives of the British and Irish Governments and of the devolved institutions in Northern Ireland, Scotland and Wales and whose function is to exchange information, consult and reach agreement on the co-operation of matters of mutual interest should also be used to promote children's rights.
29. The UK Government retains ultimate and overall responsibility for ensuring full implementation of the Convention and securing the rights of its 13.5 million children.
30. Despite the Committee's concern that a national mechanism was needed to co-ordinate the implementation of the Convention,<sup>9</sup> the Government has failed to put such a mechanism in place. While the Children and Young People's Unit in England has responsibility for coordinating the reporting process, it is not specifically charged with monitoring implementation of the CRC and has no cross-UK authority. Similarly, the Children and Young People's Unit in Northern Ireland has responsibility for observing and implementing the Convention, but has no monitoring function.

### **Recommendation**

31. There should be explicit responsibility across government and at all levels of government throughout the UK for monitoring implementation of the CRC and a built-in system of children's rights impact evaluation and assessment.

### **Preparation of the Second UK Report**

32. The Department of Health co-ordinated the preparation of the Second UK Report to the Committee and organised a conference in February 1998 announcing its intention to consult widely. Varying levels of consultation with NGOs occurred in fact. The Scottish Office gave financial support to an NGO seminar giving NGOs the opportunity to comment on the draft.<sup>10</sup> A half day consultation meeting on the draft report was held with Northern Ireland's NGOs although they did not get to see the redrafted document and considered that the consultation period was too short.<sup>11</sup> There was also little evidence of consultation within departments with respect to the compiling of the UK report and, although the Welsh Office and the Department of Health in England funded some consultations with children, neither are reflected in the Second UK Report. Overall, while NGOs welcome the fact that a greater level of consultation took place in the preparation of the Second than the First UK Report to the Committee, we have serious concerns about the Report's structure and context (with particular regard to Northern Ireland and Scotland) and its overwhelming failure to adequately report on the state of children's rights across the UK.<sup>12</sup> Inaccuracies, including misrepresentation of law and policy and of NGO concerns, are highlighted throughout this report.

### **Ministerial Responsibility for Children's Rights**

33. Three of the 4 UK jurisdictions have appointed ministers for children or established parliamentary children's committees to co-ordinate policy making and service delivery.
34. Scotland has a Minister for Education and Young People, and is setting up a Cabinet Committee on Children.<sup>13</sup>
35. England has a Minister for Children and Young People, which is not a cabinet position, and which also has responsibility for prisons, community safety and domestic violence between adults. England also has a Cabinet Committee on Children and Young People's Services chaired by the Chancellor of the Exchequer.<sup>14</sup>
36. The National Assembly for Wales has a Cabinet Children's Committee, which brings together the First Minister and Minister for Health and Social Services and Youth Justice, Minister for Education and Lifelong Learning, and the Minister for Culture and Sport.<sup>15</sup> This Committee is committed to producing an annual report.
37. Northern Ireland does not have either a minister with special responsibility for children or a cabinet children's committee. However, an Interdepartmental Group has been established to co-ordinate the development of the office of Children's Commissioner and the Children's Strategy.
38. These developments are welcome. However, none is aimed specifically at ensuring full implementation of the Convention. Thus, none of the Ministers has specific responsibility for implementation of the Convention and none of the Committees has yet reviewed or considered Government's responsibilities under the Convention.

### **Recommendations**

39. A Cabinet-level Minister for Children should be established in each UK jurisdiction. Government bodies, ministers and officials with responsibility for children's matters in each jurisdiction should co-ordinate effectively with each other to ensure that the best practices, structures, policies and procedures are identified and implemented for all children across the UK. In this regard, there should be regular – at least quarterly – meetings between those with ministerial responsibility for children in England, Northern Ireland, Scotland and Wales, with communication and joint action serviced by a permanent secretariat.

### **Monitoring and reporting progress**

40. Apart from the commitment of the Children and Young People's Unit to presenting to Parliament an annual report on the state of England's children, there is no obligation, either at UK or national level, to present a periodic report to Parliaments or National Assemblies on the state of children's rights in the UK. There is no commitment to the systematic gathering of data on children and their rights and no strategy at UK or national level to conduct research into the trends in this area.
41. No comprehensive analysis exists of government spending on children and thus, it is almost impossible to determine whether children's economic and social rights are being implemented to the maximum extent of available resources.

### **Recommendations**

42. A comprehensive report on the state of children's rights, using the Convention as a framework, should be published and presented to Parliament and local assemblies annually. Information should be collected and indicators developed in each jurisdiction to enable constructive comparisons to be made between them.
43. Transparent budget analysis should provide a comprehensive picture of government spending on children to enable implementation of children's economic, social and cultural rights to be monitored. This information should be disaggregated across all 4 jurisdictions.

### **Independent Human Rights Institutions for Children**

44. Wales is the first jurisdiction in the UK to have an independent Children's Commissioner. Its remit extends to any matter affecting the rights and welfare of children in Wales. However, as its powers with regard to non-devolved matters are limited to passing comments to the UK Government via the National Assembly, its potential to ensure full respect for children's rights in primary legislation is limited. There are also other unsatisfactory limitations on the Commissioner's powers.<sup>16</sup>
45. A consultation document on a Children's Commissioner for Northern Ireland was published by the Human Rights Unit of the office of First Minister and Deputy First Minister in August 2001.<sup>17</sup> Following public consultation, which revealed overwhelming support for the post, legislation is being drafted with a view to having a Commissioner for Children and Young People in place by the end of 2002. If the legislation grants the Commissioner all the powers proposed, Northern Ireland will have one of the most powerful models in the world.
46. Northern Ireland also has a statutory Human Rights Commission, whose duty it is to review the adequacy and effectiveness in Northern Ireland of law and practice relating to the protection of human rights and to raise awareness about human rights issues.<sup>18</sup> The Commission also undertakes research and monitoring work in the area of children's rights and in its proposals for a Bill of Rights for Northern Ireland, it has recommended the inclusion of a separate children's rights clause, which incorporates a number of the Convention's principles and provisions.

47. The Education, Culture and Sport Committee of the Scottish Parliament has recommended the establishment of an office of Commissioner for Children and legislation is expected to be introduced to parliament in September 2002. NGOs are concerned, however, that such an appointment may result in the Scottish Executive abdicating its responsibility to monitor implementation of the Convention.<sup>19</sup>
48. The Government has as yet failed to establish a Children's Rights Commissioner in England. Although a Children's Rights Director has been appointed, this position only relates to the inspection and regulation of residential provision for children living away from home and certain other services.<sup>20</sup> Draft regulations for this post, issued in January 2002, have been criticised by NGOs as being extremely limiting and there is concern also about the lack of resources available to the Director to carry out his functions.

#### **Recommendation**

49. An independent, statutory office of Children's Rights Commissioner, with powers consistent with the Paris Principles, should be developed or established in each jurisdiction of the UK. Each office should have sufficient resources and wide-ranging powers and duties to enable it to conduct effective investigations in individual cases, research general areas of non-compliance and guarantee to children the right to an effective remedy for breaches of their rights.

#### **Co-operation and Consultation with NGOs**

50. Consultation and co-operation between Government in all four UK jurisdictions and the non-governmental sector on the implementation of the Convention is piecemeal and *ad hoc*.
51. No public consultation has taken place in any of the four jurisdictions or across the UK on ensuring effective implementation of children's rights under the Convention.
52. Consultation has taken place in particular policy areas, for example in relation to physical punishment and Children's Commissioners, and there is some evidence of positive collaboration between the NGO sector and the devolved administrations in seeking to develop policy that is compatible with children's rights under the Convention. The development of the Standards in Scotland's Schools Act 2000, for example, shows the benefits of NGO involvement, particularly insofar as the legislation grants pupils rights to participate and reflects the aims of education under Article 29 of the Convention.<sup>21</sup> Consultation on physical punishment in Northern Ireland was also considered a positive experience.<sup>22</sup> In Wales, there is a formal Partnership Council with the Voluntary Sector and Children in Wales is one representative network. Biannual meetings take place with each Minister and Children in Wales is core funded to provide a representational mechanism for policy development.<sup>23</sup> Evidence is also regularly given to Assembly Committees. In England and more generally elsewhere, however, consultation on children's policy issues continue as mere paper exercises with little opportunity for informed debate and dialogue between policy makers and children's rights advocates.

#### **Recommendation**

53. Effective formal structures for co-operation and collaboration with children's rights NGOs, including organisations of children, should be established in England, Scotland and Northern Ireland.

#### **Raising Awareness about Convention Rights – Article 42**

54. Awareness about Convention rights is extremely poor among both children and adults.<sup>24</sup> The Convention is not a compulsory part of the school curriculum and is thus not taught systematically in schools. Professionals and others working with children receive no

compulsory training on its provisions or its implications for work with children. Information on the Convention is not disseminated to parents, families or the general public.

#### **Recommendations**

55. Education on the Convention should be included in the mainstream school curriculum for all ages.
56. Training curricula – both initial and in-service - for all those working with and for children should promote knowledge of and respect for children’s rights under the Convention.

#### **Making CRC Reports Widely Available**

57. The Second UK Report was published in 1999 and is available on sale, with the Concluding Observations of the Committee on the Initial Report included as an Annex. There has been no other dissemination, public debate of, or consultation on the Committee’s conclusions.

#### **Recommendations**

58. Government throughout the UK should promote a public debate involving children, and parliamentary debate in the Parliaments and National Assemblies, on the reporting process under the Convention and the Committee’s concluding observations.
59. The UK Government should plan now to develop its third report in line with the Committee’s guidelines and in such a way as to encourage the widest possible participation and public – including children’s – scrutiny of relevant government policies.

## **II. Definition of the Child**

60. Age-based legislation across the UK continues to be muddled and inconsistent, with the following issues raising particular concern.

#### **Age of Criminal Responsibility**

61. The age of criminal responsibility is 8 in Scotland despite existing procedures in civil proceedings which presume maturity at 12 years. The Scottish Law Commission has recommended the introduction of an absolute ban against prosecuting children under the age of 12 and the conceptualisation of the age of criminal responsibility as setting limits on prosecuting children, rather than the capacity to commit crimes.<sup>25</sup>
62. In Northern Ireland, the age of criminal responsibility remains at ten years and the Justice (Northern Ireland) Bill fails to raise it. Seventeen year olds are treated as adults in the criminal justice system.<sup>26</sup>
63. The age of criminal responsibility remains at ten in England and Wales also and children as young as 10 can be tried and sentenced to custody in an adult Crown Court. Moreover, the introduction of the Child Safety Order, a criminal justice order aimed at protecting children from criminal activity, effectively means England and Wales now have no minimum age of criminal responsibility.<sup>27</sup>

#### **Sex Offenders Register**

64. In England, Scotland and Wales, there is no minimum age at which children can be placed on the Sex Offenders Register, which was introduced in September 1997 to address public concern that paedophiles and other adult sex offenders were living unsupervised in local communities. Children as young as 11 have been placed on the Register and a consultation document on the Sex Offenders Register issued by the Home Office and the Scottish Executive in July 2001 proposes *inter alia* the use of a Detention and Training Order for children breaching the terms of their registration, with a suggested maximum imprisonment of two years.<sup>28</sup>

## Protection of Children in Employment

65. Although 13 year-old children are entitled to work part-time, they are not eligible for the minimum wage until 18 years and even then it is at a reduced rate until they reach 22.<sup>29</sup>

## Access to Benefits

66. Full benefit entitlement is not available to anyone under 25 years. Even when they are parents, children are not entitled to full benefit rates.<sup>30</sup>

## Civil Rights

67. Sixteen and 17 year-olds can work full-time, pay income tax, get married, change their name by deed poll, ask the state to look after them and claim social security benefits in certain restricted circumstances. The right to vote cannot be exercised by those under 18 years.<sup>31</sup>

## Recommendation

68. The Government should undertake a UK-wide review of all age-based legislation to ensure it is fully compliant with the Convention and offers children maximum protection of their rights.

## III. General principles

### Non-discrimination (art. 2)

69. The Committee expressed concern in 1995 at the insufficient measures taken by the UK Government to ensure the implementation in domestic law, policy and practice of the principle of non-discrimination.<sup>32</sup>

70. Section 75 of the Northern Ireland Act 1998 creates a statutory duty on public authorities to 'have due regard to the need to promote equality of opportunity' between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation, between men and women, between persons with a disability and persons without and between persons with dependants and persons without. It is too early to say whether this welcome statutory provision can have a real impact on the lives of all children in Northern Ireland.

71. Both the Scottish Parliament and the National Assembly for Wales have established Equal Opportunities Committees.

72. Despite these developments, equal treatment has not yet formed the cornerstone of service provision in the UK. Particular concern remains regarding the access to and quality of health care and education with respect to children with disabilities, children in the justice system and children from minority, Traveller or ethnic communities.<sup>33</sup>

### Disability

73. In Scotland, NGOs have expressed serious concerns about the protection of the educational and social rights of children with disabilities. Amendments to the Disability Strategy in Education Bill should be made to ensure that providers of educational services both ensure and are accountable for equality of access to opportunities.<sup>34</sup>

74. Although the *Disability Discrimination Act* was introduced to Northern Ireland in 1995, its provisions are limited mainly to employment and the provision of goods and services. It has had little if any impact on the lives of children with disabilities as it does not apply to areas of education, health or justice. Moreover, although the Children (Northern Ireland) Order 1995 defines children in need to include children with disabilities, there is concern about discrimination against such children, particularly with regard to accessing mainstream education.<sup>35</sup>

75. Following the enactment of disability discrimination legislation, the Disability Rights Commission came into existence in England and Wales in April 2000. The Commission can take on individual cases, and is actively promoting new legislative requirements on schools and local education authorities to provide inclusive education. From September 2002, it will be able to deal with cases of disability discrimination in education. This initiative should be extended to all jurisdictions of the UK.
76. In England and Wales, the *Special Educational Needs and Disability Act 2001*, which comes into effect in September 2002, recognises the right of disabled children to attend mainstream school, but permits their exclusion on the grounds of limited resources or the perceived needs of other children. In addition, the choice of mainstream education is granted solely to parents, with no requirement on schools or educational authorities to seek the views of children themselves.<sup>36</sup>
77. More generally, disabled children have restricted access to cultural and leisure opportunities, with few inclusive playgrounds. Public transport is not covered by legislation on disability equality – except by s 75 Northern Ireland Act 1998 - and there are ongoing concerns about disabled children's access to health care.<sup>37</sup>

#### *Economic, Social and Geographical Disparities*

78. In 1995 the Committee recommended that the UK take measures to address, as a matter of priority, problems affecting the health status of children of different socio-economic groups and of children belonging to ethnic minorities.<sup>38</sup> Despite this, there remain serious concerns about the extent to which access to health, education and other services depends on social, economic and geographical factors. Children's enjoyment of their Convention rights is hugely dependent on their parents' status and background and poverty continues to act as a cause of discrimination in this regard. For example, in England, babies of unskilled fathers are 70% more likely to die in their first year compared to babies of professional fathers.<sup>39</sup> In Northern Ireland, there is differential access to health services depending on where one lives and/or one's ethnic background<sup>40</sup> and in Scotland, black and minority/ethnic children experience difficulties having their needs met by statutory service providers.<sup>41</sup>

#### *Rights of Gypsy/Travellers*

79. Gypsy/Travellers suffer frequently from racism, bullying and harassment.<sup>42</sup> They also experience persistent discrimination in access to education, health and accommodation services<sup>43</sup> and are disproportionately excluded from school, have lower academic success and limited access to health care.<sup>44</sup> The report of the Equal Opportunities Committee of the Scottish Parliament into public sector policies and Gypsy/Travellers acknowledged the extent of the discrimination they face. However, the response of the Scottish Executive has failed to reflect the need for a coherent strategy to address the issues. The decision of the National Assembly for Wales to conduct a year long enquiry surveying health, education, accommodation and policing services in order to establish a new policy on Gypsies and Travellers is welcome. Despite the introduction of the Race Relations (NI) Order 1997 and the equality provisions of the Northern Ireland Act 1998, Traveller children continue to experience discrimination in relation to education, health, social services and housing.<sup>45</sup>

#### *Asylum Seekers*

80. Many aspects of the treatment of asylum seeker and refugee children fails to respect their right to enjoy Convention rights without discrimination. There are concerns about the poor levels and nature of state financial support that they receive, their access to adequate accommodation, the use of detention and the policy of compulsory dispersal to other parts of the UK.<sup>46</sup>

### *Children in Custody*

81. Despite poor numeracy and literacy levels among children in custody, these children do not enjoy access to education equally with those in the community. In England, Wales and Northern Ireland children in custody have no statutory right to education, cannot access the full curriculum, and limited teaching staff struggle to meet the diverse educational needs of all the children.<sup>47</sup>

### *School Exclusions*

82. There is serious concern that school exclusions are used disproportionately against boys, children with disabilities and other special needs and children from ethnic minorities. Figures suggest that boys are excluded permanently 5 times more than girls; black children are 3 times more likely to be excluded permanently as pupils of other ethnic groups and children with special needs are represented disproportionately in the figures of children excluded.<sup>48</sup>

### *Social Security benefits*

83. Sixteen and 17 year olds are only entitled to income support in certain restricted circumstances, and full benefit entitlement is not available to anyone under 25, even to teenagers who are parents. Under the Children (Leaving Care) Act 2001, children leaving care will be provided with financial support only on a discretionary basis.<sup>49</sup>

### *Strategic Approach*

84. There is little evidence that government has begun to acknowledge or systematically address the discrimination faced by children because of their age or other factors. The impact of the equality duty in section 75 of the Northern Ireland Act 1998 should be monitored closely.

### **Recommendations**

85. Government across the UK should take urgent action to ensure that all children in all jurisdictions enjoy all rights in the Convention without discrimination.
86. A rights-based approach to children's policy is required to ensure that government at all levels across the UK systematically identifies and challenges discrimination, working collaboratively with children and with NGOs.

### **Best Interests of the Child (art. 3)**

87. In 1995, the Committee recommended that greater priority be given to incorporating Article 3 into legislation and administrative measures and policies regarding children.<sup>50</sup> However, although enshrined in child protection and care legislation, the best interests principle does not form a fundamental part of the decision making process in relation to the treatment of children in the juvenile justice system, or in the education, health, social welfare or immigration systems. For example, authorities deciding to impose a custodial sentence, to exclude children permanently from school, to stop or reduce benefits for failure to comply with social security rules or to address the needs of homeless 16 and 17 year olds are not required to consider the best interests of children. A good example was set by the decision to accept a proposed amendment to housing legislation in Scotland, and England and Wales, which obliges local authorities to have regard to the best interests of any dependent children regarding a housing matter and to consider the needs of children more generally in the preparation of homeless strategies.<sup>51</sup>

88. Current policies and proposed legislation in a whole range of areas fails to consider the best interests of the child as a fundamental and guiding principle. For example, new criminal justice legislation in Northern Ireland (The Justice (NI) Bill) does not enshrine the best interests principle; the low age of criminal responsibility throughout the UK is clearly not in the best interests of children; nor does UK policy regarding the dispersal and treatment of refugees and asylum seekers give priority to what is in such children's best

interests. Further examples of the Government's failure to treat the article 3 standard as guiding and fundamental are evident throughout this Report.

89. Although evolving government structures are giving more attention to children in all four jurisdictions, Article 3 does not yet guide government action at UK or regional levels. Budgets or resources are not allocated or utilised with any reference to this principle.

#### **Recommendations**

90. Children's best interests should be established as a paramount consideration in all legislation and policy affecting children and consistently applied across all decision-making processes.
91. Central and local government across the UK should prepare annual reports on levels of social expenditure on children.

#### **Right to Life, Survival and Development (art. 6)**

##### *Poverty*

92. The Committee expressed serious concern in 1995 about the increasing number of children living in poverty.<sup>52</sup> The UK has the highest levels of child poverty in Europe – one in three children live in poverty.<sup>53</sup>
93. Despite the Government's commitment to eradicate child poverty by 2019 and the introduction of various measures to meet this target, not all UK jurisdictions have a dedicated anti-child-poverty strategy.<sup>54</sup>
94. Society across the UK is profoundly unequal<sup>55</sup> with the poorest tenth of the population receiving 3% of the UK's total income, compared with the richest tenth receiving 25% of income.<sup>56</sup> Benefit levels for families and independent young people (16 and 17 year olds) remain inadequate and unemployment in this category is acute. Differentiating access to health care on the grounds of socio-economic and geographical factors is highlighted above and means that the link between poverty and ill-health endures. Mortality rates remain highest among poor children.
95. There is serious concern about the impact of poverty on children's enjoyment of their rights under the Convention. Poverty remains associated with a number of indicators of a child's wellbeing which are a cause for concern including mortality, accidents, neglect and abuse, teenage pregnancy, poor housing, homelessness, educational attainment, smoking, suicide and self-esteem.<sup>57</sup>

#### **Recommendations**

96. The Government should undertake all necessary measures to accelerate the elimination of child poverty.
97. Urgent action is needed to reduce children's health inequalities associated with income levels, ethnicity and neighbourhood.
98. The Government should invest the necessary resources to ensure an end to child and family homelessness and provide adequate financial support to independent young people.

##### *Right to Life*

99. Accidental injuries continue to be the greatest cause of childhood death, with 423 UK children under 14 dying in this way in 1999. House fires are the single biggest cause of death in the home, and yet there are no child safety checks in public sector and private rented accommodation.<sup>58</sup>
100. The rate of suicide among young people, including in custody, is cause for concern.<sup>59</sup>

101. The rate of workplace deaths and numbers of serious injuries across the UK raises critical questions about the regulation of children's employment.<sup>60</sup>
102. In the UK, 60 -80 children are killed every year in the family.<sup>61</sup>
103. Many children do not have a safe place to play endangering their health, life and development and there is little attempt being made to integrate the child's right to play safely into planning law and policy.<sup>62</sup>

#### *Accommodation for Travellers*

104. Children's right to life, survival and development is also threatened by poor planning of housing areas and failure to put in place adequate high quality accommodation for Travellers. In Northern Ireland, for example, such children have very few safe places to play<sup>63</sup> and in Wales, the limited number of available sites for Traveller families means that the health and safety of children at road sites is of concern.<sup>64</sup>

#### *Children in conflict*

105. Despite the advances of the peace process in Northern Ireland, unresolved conflict issues mean that sectarianism and other factors threaten the life, survival and development of children there. It is widely recognised that children have been particularly affected by the violence and face marked difficulties. Olara A Otunnu, Special Representative of the UN Secretary General for Children and Armed Conflict, has visited Northern Ireland and expressed these concerns to the Secretary General.<sup>65</sup>

#### **Recommendations**

106. A statutory obligation to review all child deaths should be introduced to determine how they might have been prevented. Annual reports should be presented to the Parliaments and Assemblies depicting the causes of death, the scale of infant and child homicide and accidental fatalities, including in the workplace, and preventive action required.
107. A UK-wide review should be carried out, involving NGOs and the public, on the prevalence of and factors affecting infant and child homicide and other violence that threatens children's life and development in the family.
108. Planning authorities should take account of the child's right to play and be safe in their own neighbourhoods.
109. The Government should make available adequate resources for services designed to specifically address the traumatic impact of the conflict on children in Northern Ireland.

#### **Respect for the Views of the Child (art. 12)**

110. Attempts to involve children in decision-making processes at government level and throughout their lives remain piecemeal. Respect for the views of the child is not built into legislation and policy concerning children. In Wales however, the development of Llais Ifanc - Young Voice - supported financially by the Assembly, as an independent national organisation of children and young people is extremely welcome.
111. Children in care are the only group in all UK jurisdictions to have a legal entitlement to be consulted and to have their wishes taken into account when decisions are made that affect them. However, the extent to which this participation is meaningful and effective is uncertain.<sup>66</sup>
112. In education, Scottish legislation grants school children the right to be consulted in matters that affect them, and the National Assembly for Wales is in the process of requiring all schools to establish school councils. There is also a requirement for youth forums in each local authority area. No similar progress has been made in England or Northern Ireland, however, and, in all parts of the UK except Scotland, legislation

continues to exclude children from the exclusion appeal process, despite the Committee's recommendation for change in 1995.<sup>67</sup>

113. The right of the child to independent representation in legal proceedings is not widespread and is particularly rare in private law proceedings.<sup>68</sup> Use of independent advocates is not yet uniformly applied in Wales<sup>69</sup> and there have been difficulties providing independent and confidential advocacy services to children in need in England.<sup>70</sup> There is serious concern about children's lack of representation in 'youth offending panels' in England and Wales and the risk of panels making contracts with the children which are disproportionate and restrictive of their liberty.<sup>71</sup> Concerns exist in Scotland also over the extent to which children can participate in Child Welfare Hearings.<sup>72</sup>
114. Children continue to be excluded from divorce proceedings and research shows that they are rarely fully involved in informal discussions between separating parents.<sup>73</sup>
115. While there is still no visible strategy either at UK or regional level to systematically integrate Article 12 in legislation and policy, some positive initiatives are being developed which show signs that the UK Government and the devolved administrations are taking children's participation rights more seriously.<sup>74</sup>
116. There is growing demand for electoral reform to enable 16 and 17-year-olds to vote in general and local elections.
117. Section 75 of the Northern Ireland Act 1998 requires all public bodies to consult with a number of different categories of people with regard to their equality duty - people of all ages, and consequently children, is one of these categories. However, it is too early to determine whether the effect of this duty will be to integrate consultation with children in all relevant public authority decision making.

#### **Recommendations**

118. Relevant legislation across the UK should be amended to reflect children's right to express their views and have them taken into account in all matters affecting them. Areas requiring urgent action include decision-making processes in the family, education (affecting children as individuals and collectively), children's representation in family proceedings and democratic participation in central and local government.
119. The provision of independent advice and advocacy should be extended to all children involved in judicial or administrative proceedings. Legal reform should ensure that children have a statutory right to representation in divorce and separation proceedings.

## **IV. Civil rights and freedoms**

### **Name and Nationality (art. 7)**

#### *Right to know and be cared for by his/her parents*

120. In England and Wales the Adoption and Children Bill 2002 gives unmarried fathers automatic parental responsibility if their name is on a child's birth certificate. However, there is no guarantee that this law will secure the child's right under the Convention to know both parents.<sup>75</sup>
121. The right to access birth information in the context of adoption and IVF continues to be severely limited: for example, in England and Wales only adults have the right to seek information and contact with their birth family and adoptive parents are under no duty to inform children of their status. The Government is currently consulting on issues relating to children born as a result of donor insemination.<sup>76</sup>

### *The right to nationality*

122. The British Nationality Act 1981, which removed the automatic right of British nationality to all children born in the UK, remains in place.<sup>77</sup>

#### **Recommendations**

123. The law on birth registration should be reviewed to ensure that the child's right to know his/her parents is guaranteed.
124. The British Nationality Act 1981 should be amended to restore the right of children born in the UK to British Nationality and/or the nationality of their parent(s).

#### **Right to freedom of expression (art. 13)**

125. Children can be excluded from full-time education on the basis of persistent refusal to conform to school uniform policy, yet schools are under no obligation to consult pupils about such policies.<sup>78</sup>

#### **Recommendations**

126. School policies should be reviewed, in consultation with children, to ensure that no child is excluded, or threatened with exclusion as a result of his or her preferred clothing and general appearance. Guidance to schools should require an end to gender-based restrictions on clothing.

#### **Freedom of thought, conscience and religion (art. 14)**

127. While parents in England and Wales are entitled to remove children from religious education and acts of worship in schools, children cannot themselves request exemption.<sup>79</sup>

128. There is concern that the Government's decision to increase the number of single faith schools in England runs counter to the child's right to freedom of thought, culture and religion.<sup>80</sup> Concern also exists that the emphasis on Christianity in the provisions controlling religious education in schools in England, Wales and Scotland discriminates against the equal rights of children of other faiths.<sup>81</sup>

#### **Recommendations**

129. Legislation covering religious education and collective worship should be reformed so that children with sufficient understanding have the right to request withdrawal and are consulted and their views given due weight when their parents make such a request.
130. Appropriate departments should review their policies, including funding policies, to ensure that they respect without discrimination and promote the freedom of thought, conscience and religion of children of all faiths and no faith, and respect for diversity and inclusive learning.

#### **Freedom of association and peaceful assembly (art. 15)**

131. In England and Wales, the Criminal Justice and Police Act 2001 contains the power to impose blanket curfews restricting the movement of children under 16 in specified areas.<sup>82</sup> A similar 'child safety initiative', widely perceived as a curfew, has been running in Scotland for a number of years.<sup>83</sup>

#### **Recommendation**

132. Legislation permitting local child curfews should be repealed.

#### **Protection of Privacy (art. 16)**

##### *Stop and Search Legislation*

133. Under the Emergency legislation in Northern Ireland, children and young people can be stopped and searched on the street by the police and army.<sup>84</sup>

### *Legal Proceedings*

134. There is concern that children tried in the crown (adult) court may not have their right to privacy sufficiently protected. In this context, the judiciary's discretion to make orders protecting the identity of the young accused applies only where a case may attract widespread public or media interest. This is despite the judgments of the European Court of Human Rights in 1999<sup>85</sup> and the fact that in 2001, a court had to order that details of appearance and custody in relation to two boys about to be released on licence be withheld from the media in order to protect their right to life.<sup>86</sup>
135. There is concern also with regard to the failure to protect the identity of children and young people involved in other proceedings, including Children's Hearings in Scotland, in school exclusion proceedings and anti-social behaviour order proceedings.<sup>87</sup>

### *Asylum seekers*

136. Children in the UK can be subjected to physical examination designed to establish their age, and fingerprinting as part of the process of applying for asylum. New ID cards have been introduced for all asylum-seekers including children raising concerns about their stigmatising effects.<sup>88</sup>

### *Government databases*

137. The use of databases as a means of monitoring and tracking children and young people is increasing and has recently expanded into the area of education. A database has been established to record centrally the details of each individual pupil in England and schools are not required to inform pupils or parents about the database. Nor is there any opportunity to correct inaccurate information. A further database – the Connexions service - contains personal information about children which can be shared among the police, social services, education and youth services.<sup>89</sup>
138. The Metropolitan Police in London have recently announced plans to engage nursery schools and care groups in identifying children (under-fives) who may in the future become involved in criminal activities. The young children's details will be included on local databases.

### *Privacy in Custody*

139. There are concerns, particularly in Northern Ireland regarding the protection of the right to privacy in custody with regard to letters, telephone calls, and family visits.<sup>90</sup>

### **Recommendations**

140. As a matter of urgency, legislative reform should be undertaken to protect the right of all children to anonymity in all criminal, civil and administrative proceedings.
141. Appropriate departments across the UK should carry out comprehensive reviews in order to ensure that children's privacy rights are respected in the care system, the asylum system, in residential schools, in hospitals and in juvenile justice institutions.
142. The extent to which children have access to confidential counselling, including the provision of advice and information on their rights should be reviewed in order to protect their rights under the Convention.
143. Systems for data collection on children should be urgently reviewed to ensure compliance with the Convention.
144. Emergency legislation should be repealed immediately insofar as it applies to children and young people.

### **Access to appropriate information (art. 17)**

145. Children and young people express frustration and difficulty accessing information about their entitlements, and general advice and information on subjects relating to health information and training opportunities.<sup>91</sup>

146. Parents experience difficulty balancing the right of the child to access information on the internet and protecting them from its harmful effects.<sup>92</sup>

#### **Recommendations**

147. The UK Government and appropriate departments should ensure children are effectively protected from exposure to the risk of abuse through the internet and other mass media.

148. Greater attention should be given to securing the right of young people to access to appropriate information. Appropriate information should be given to all children of compulsory school age on the child protection system and other sources of advice and assistance, including of a confidential nature. Positive initiatives should be monitored closely and mainstreamed where appropriate.<sup>93</sup>

#### **Protection from torture or other cruel, inhuman or degrading treatment (art. 37(a))**

149. There are major concerns about the frequent use and types of physical restraint used on children in residential institutions and in custody. The placement of children in solitary confinement is also a matter of serious concern.<sup>94</sup>

#### **Recommendation**

150. An urgent review of the use of restraint and solitary confinement in custody, education, health and welfare institutions throughout the UK should be carried out to ensure compliance with the Convention.

## **V Family Environment and Alternative Care**

#### **Parental Guidance and Responsibilities (art. 5 and art. 18)**

151. While parents in England receive high quality information from the Health Development Agency, both before and after the birth of their children, none of this material refers to the Convention.<sup>95</sup> Most of the parenting courses on offer are run by NGOs, with little funding or regulation of quality from Government.<sup>96</sup>

152. Despite the increasing scale of family breakdown and its consequences for children, services which offer counselling and support in this area are greater inadequate priority.<sup>97</sup>

#### **Recommendations**

153. Statutory agencies and NGOs should disseminate information to all parents of new-borns on children's rights and parenting skills.

154. Government should provide greater funding and regulate NGOs and other agencies providing support for children and parents in the event of family breakdown.

#### **Separation from Parents (art. 9)**

155. NGOs throughout the UK have concerns about the access by children in custody to their family and friends and adults in custody maintaining contact with their children. In England, there is provision for mothers to have their babies with them in prison to a certain age, but there are concerns about the harmful effects on babies of living in prison and the devastating effect when separation occurs.<sup>98</sup>

156. Children visiting their parents in prison do not always enjoy family-friendly conditions and in Northern Ireland in particular, there are no facilities for child-only visits.<sup>99</sup> Moreover, families find it difficult to visit their children in secure custody in Northern Ireland due to the location of the Juvenile Justice Centres.<sup>100</sup>

#### **Family Reunification (art. 10)**

157. Under UK immigration rules, asylum seekers have no right to family reunification. Even if parents or primary carers are granted Exceptional Leave to Remain, on

humanitarian grounds, they are not normally allowed to be joined by their immediate family for a further four years.<sup>101</sup>

#### **Recommendations**

158. Legislation should be amended to ensure that no children – including those in homeless families and those seeking asylum – are ever separated from their parents unless it is in their best interests.
159. Courts should be required to make the best interests of affected children a primary consideration when considering a custodial sentence for anyone with parental responsibility.
160. Government should undertake to secure to all children, particularly those in custody or with parents in custody, the right to frequent and direct contact with their families.

#### **Children deprived of their Family Environment (art. 20)**

161. Children in care form one of the most socially excluded and poorly educated groups of children in the UK. On average between 70 and 75% of such children leave school with no formal qualification.<sup>102</sup>
162. NGOs are concerned about the access by children in foster care and children with special needs to advocacy services. Following the *North Wales Child Abuse Tribunal of Inquiry*, the Waterhouse Report made 72 recommendations with regard to protecting the rights of children in care, including the appointment of an independent Children's Complaints Officer and making the failure of staff to report suspected abuse of a child by anyone else a disciplinary offence.<sup>103</sup> The National Assembly for Wales has begun to implement these recommendations.
163. In England, a 'Children's Rights Director' was appointed in September 2001 but NGOs are concerned about the Director's lack of appropriate statutory powers, narrow remit and inadequate funding.<sup>104</sup>
164. In 1999 the torture and murder of eight year-old Victoria Climbié by her aunt and aunt's partner in London exposed serious shortcomings in the protection of children who are separated from their parents but living with other relatives or family friends/acquaintances. While those intending to foster privately are required to notify the local authority under the Children Act 1989 in England and Wales, there is no duty to approve or register private foster carers.<sup>105</sup>

#### **Recommendations**

165. All children cared for away from home should have a legal right to independent advice and advocacy.
166. Accessible, well-publicised, independent and effective complaints procedures should be guaranteed to all children living away from home.
167. Exit interviews should be routinely carried out with children leaving care to seek information about their care and experiences and to offer advice and information.
168. The Government should confirm an end to the practice of placing children in care and leaving care in "bed and breakfast" and other unsuitable accommodation.
169. The law should be reformed to require that private foster care be regulated and inspected by the appropriate inspection bodies in each jurisdiction of the UK on the same basis as other placements.

#### **Adoption (art. 21)**

170. The Adoption and Children Bill, intended to reform adoption law in England and Wales, fails to give children party status or a right to give or refuse consent in adoption proceedings. Moreover, children's right of access to information – about their adoption

and their origins - is not addressed in the Bill or in existing legislation in any UK jurisdiction.<sup>106</sup>

171. Concern exists that the process of obtaining a freeing order for adoption takes a significantly long period of time - 4 years in Northern Ireland and 3.5 in England for example.<sup>107</sup>

#### **Recommendation**

172. Existing and proposed adoption law and practice should be revised to bring it into line with the Convention, including its requirement that the best interests of the child shall be the paramount consideration.

#### **Periodic review (art. 25)**

173. Children in care have no right to independent representation in local authority decision-making processes. There is no routine support for participation in meetings – through training or independent advocacy and there is no independent mechanism that can review their care and treatment at set intervals throughout the time they are separated from their parents.<sup>108</sup>

#### **Recommendations**

174. The right of all children living away from home to a statutory review of their placement, including in private foster care and in health and custodial settings, should be enshrined in law and policy.

175. Guidance and inspection should ensure that reviews are held regularly, independently chaired, and that children are fully included and offered access to independent advocates.

#### **Abuse and Neglect (art 19), including physical and psychological recovery and social reintegration (art 39)**

176. In 1995 the Committee expressed the view that additional efforts were required to overcome the problem of violence in society and recommended that physical punishment of children in families be prohibited.<sup>109</sup> Despite this recommendation and judgment against the UK in the European Court of Human Rights<sup>110</sup> the Government has not acted to protect children from corporal punishment by parents and certain other carers and the law continues to condone “reasonable chastisement”. In addition, the child protection system lacks an adequate legislative base and continues to fail many children despite an endless succession of high-profile inquiries and further ECHR judgments.<sup>111</sup>

177. The Government maintains that the Human Rights Act 1998, which brings ECHR rights into domestic law, provides adequate protection for children even though it provides no effective deterrence. The Court of Appeal has ruled that the defence of “reasonable chastisement” remains available despite the European Court's judgment finding that its application provided children with insufficient legal protection from abuse and ill-treatment, and courts continue to acquit parents who have admitted beating their children causing injuries.<sup>112</sup>

178. The Government announced in 2001 following public consultations that no further change to the law in England and Wales was appropriate or necessary at this time.<sup>113</sup>

179. In Wales, however, secondary legislation is being introduced to prevent childminders from smacking children in their care.

180. Consultation has also been carried out on the issue by the devolved government in Northern Ireland.<sup>114</sup> Although proposals for legislative change are expected in 2002, there is serious concern, derived from Assembly debates on the issue, that the abolition

of physical punishment within the family may not occur.<sup>115</sup> Moreover, legislation abolishing corporal punishment in schools in Northern Ireland does not apply to independent schools and although the Minister for Education has stated his commitment to abolish physical punishment in all schools, this has yet to happen.

181. In October 2001, the Scottish Executive announced its proposal to ban the use of all forms of physical punishment on children below the age of 3 years and to ban the use of implements on those over 3 years. While welcome, the current proposals do not secure all children's fundamental rights to respect for their human dignity, physical integrity and equal protection under the law. In addition to complete prohibition, other measures, including education, are required to change attitudes over time on the use of violence against children.<sup>116</sup>

182. There are also serious concerns about the levels of violence endured and witnessed by children including babies in the UK.<sup>117</sup> Of particular concern is the number of children living with domestic violence, a situation which is heightened by the absence of safe refuges and the failure to give adequate weight to children's views and their best interests when determining contact arrangements. Bullying in schools and other institutions also remains a serious problem.<sup>118</sup>

### **Recommendations**

183. Legislation should be introduced throughout the UK to remove the defence of "reasonable chastisement" and give children the same protection as adults under the law on assault.

184. Existing legislation in all UK jurisdictions should be used to regulate all forms of day care including childminding and private fostering and to prohibit corporal punishment.

185. Child care legislation should be amended to guarantee that orders for unsupervised contact or residence are not granted to parents who are found to be violent and without consideration of the best interests and the views of the child.

186. Comprehensive public education should be developed across the UK to inform children and adults about the child's right to protection from violence in the home and elsewhere, and to promote positive, non-violent forms of discipline.

187. Compulsory anti-bullying strategies for schools and all other institutions should be developed, implemented and reviewed in partnership with children.

## **VI. Basic Health and Welfare**

### **Disabled Children (art. 23)**

188. Despite legislative developments and some positive policy initiatives, all disabled children in the UK do not receive the care, education and training they require to ensure dignity, promote self-reliance and facilitate their active participation in the community, as required by Article 23.<sup>119</sup>

189. Different definitions of disability and poor coordination between departments of health and education have serious implications for the extent to which children with disabilities enjoy their rights to support and other services. These factors also make it difficult for children and parents to find out about and claim all their entitlements and means that there is a high degree of variation in the availability and quality of support and services for children and their families. Consultation with young people with disabilities and other research has raised a number of persistent concerns of this nature and have also highlighted their vulnerability, particularly in the residential setting, and the impact of bullying on their lives.<sup>120</sup> Research has found that children are not routinely involved in decisions regarding their care and education and legislation does not as yet require respect for their views.<sup>121</sup>

190. Concerns have been expressed above about the extent to which children with disabilities have the right to attend inclusive education.<sup>122</sup>

#### **Health and Health Services (art. 24)**

191. The Government's *National Health Service (NHS) Plan* published in July 2000 gave scant attention to children and failed to mention the CRC. In November 2000 the Government set up a "Children's Taskforce" to take forward the NHS Plan in relation to children and its *National Service Framework for Children* is to be published in 2002.<sup>123</sup> The National Assembly for Wales published *Too Serious a Thing* - the Carlile Review into children and the NHS in Wales in March 2002. Among its 150 recommendations are that all staff with access to children be trained to a full understanding of the rights and needs of children and that they as a matter of specific contractual obligation respect and apply those rights rigourously. The Scottish Executive has yet to develop the *Towards a Healthier Scotland* strategy to apply specific targets to key areas of children's health.<sup>124</sup>

192. Government at UK and national levels has not yet made a commitment to using the CRC to inform health policy and practice in relation to children or to proofing all new legislative and policy initiatives regarding their impact on children's health.

193. Regional health strategies are designed to tackle some of the major symptoms of child poverty. However, currently these strategies lack specific time scales and targets,<sup>125</sup> child-specific anti-poverty goals, or control over the necessary budgetary provision at UK level<sup>126</sup> and it is questionable, therefore, whether they can achieve any real progress.

#### *Mental Health Problems*

194. The Second UK Report details the high incidence of mental health problems among children in the UK<sup>127</sup> and concern is expressed above about the level of child suicide.<sup>128</sup> Despite this, mental health provision is inadequate, and concerns exist about the lack of specialised in-patient facilities as well as community based preventive services, ranging from accessible and child-friendly information about emotional well being to child-centred services offering confidential advice, support or counselling.<sup>129</sup> In this regard, the Child and Adolescent Mental Health Strategy produced by the National Assembly for Wales is welcome.

#### *MMR vaccine*

195. Government policy is that babies have one combined rather than separate measles, mumps and rubella injections. Parental concern about negative side-effects, and possible links with autism, has led to falling rates of immunisation.<sup>130</sup>

#### *Teenage pregnancy and teenage parents*

196. In 1995 the Committee expressed concern about the exceptionally high rate of teenage pregnancy in the UK.<sup>131</sup> The UK still has the highest teenage birth rate in Europe.<sup>132</sup>

197. While the Second UK Report set out the initiatives it is taking to reduce the number of teenage mothers in the UK,<sup>133</sup> there is concern that parents are still legally entitled in law to withdraw children from sex education in schools, and primary schools are under no obligation to provide such education. Moreover, Government is still not acting on the views of young people that they are getting sex education too little too late and in a way which fails to address the social or emotional dimensions of sex and relationships.<sup>134</sup>

### **Recommendations**

198. Each UK jurisdiction should produce dedicated child health strategies, including a commitment to using the Convention to inform health law, policy and practice.
199. Urgent action is needed to appropriately address the mental health problems of children in the UK.
200. The law relating to sex education in schools should be reformed so that all children have access to adequate and appropriate information in a manner consistent with their evolving capacities.

### **Standard of living (art. 27, paras 1-3)**

#### *Poverty, Housing and Homelessness*

201. Concerns about the UK's extraordinarily high rate of child poverty and its serious consequences for the right of every child to enjoy their Convention rights are set out above.<sup>135</sup>
202. Government estimates show that nearly three million households live in poor housing, and much of this is concentrated in declining neighbourhoods with high unemployment, with damaging effects on children's health and welfare.<sup>136</sup>
203. In 1995 the Committee expressed concern about young people begging and sleeping on the street.<sup>137</sup> Nevertheless, a growing number of asylum seekers are forced to beg with babies and small children, and increasing numbers of children and young people live on the streets across the UK.<sup>138</sup> There is evidence that these children are fleeing from violence and a number of them have backgrounds in the care system.<sup>139</sup> With limited access to social security, many 16 and 17 year olds end up on the street and are exposed to exploitation and abuse.<sup>140</sup>

### **Recommendation**

204. Government should undertake all necessary measures to accelerate the elimination of child poverty.
205. Government departments in all four jurisdictions should work together to urgently address the causes of youth homelessness and its consequences.

## **VII. Education, Leisure and Cultural Activities**

### **The right to education (art 28)**

206. Certain groups of children experience significant problems accessing education *per se* and of the same quality as their peers. In particular, the significant difficulties faced by children from poor families, ethnic groups, children in state care and in custody, Gypsy/Traveller children, children in residential care and children with disabilities are highlighted above.<sup>141</sup> Concern is also expressed about the disproportionate exclusion of children from certain groups.<sup>142</sup>
207. There is a lack of systematic collation and analysis of statistics in relation to children excluded from school and incidents of temporary exclusion - including where children are unofficially excluded - are not recorded adequately if at all.<sup>143</sup>
208. There is no appeal procedure for short-term exclusions and the right to appeal a permanent exclusion lies with the parents, not with the child. Even where children are heard, they feel that their views are not considered important, or are used against them.<sup>144</sup> In this context, it is welcome that the Standards in Scotland's Schools Act 2000 gives children the right to appeal an exclusion.
209. Children who are excluded immediately lose their entitlement to full-time education and there is concern about the failure to provide children with full-time education following exclusion.<sup>145</sup>

### *Access to higher education*

210. In 1997 the UK Government introduced tuition fees for entry into higher education and replaced the maintenance grant for students from low-income families with loans.<sup>146</sup> This has acted as a deterrent to those from less affluent backgrounds seeking to attend third level education. Although the Government campaign to attract more young people into higher education is welcome, it fails to address the growing inequality of opportunity in higher education for young people from less affluent families.
211. Tuition fees were abolished by the Scottish Executive in 1999 and in February 2002, the Welsh Assembly announced its plans to reintroduce grants for students from low-income families.<sup>147</sup>

### **Recommendations**

212. Current legislation should be amended to give all children in the UK the statutory right to be consulted about their education and about education policy.
213. Schools should be required to consult widely with children on matters of school discipline to develop strategies which respect the rights of pupils.
214. The Government should act to remove the disparities in educational achievement and in exclusion rates between children from different groups. All children should have the right to be guaranteed an appropriate, effective and high quality education.
215. Appropriate full-time education should be provided for all children unable to attend school for any reason.
216. The provision of free education should include making freely available to pupils all necessary equipment, books and stationery required to fulfil the school curriculum.
217. In order to promote equal opportunity, financial and other barriers restricting access to further and higher education for children from low-income families and disabled children should be urgently addressed.

### **Aims of Education (art 29)**

#### *Narrow Curriculum*

218. There are widespread concerns about the narrow nature of the curriculum for children of all ages derived from the Government's national strategies in literacy and numeracy and increased testing of children. In England, children now undergo tests at various Key Stages, Stage 1 of which involves children as young as 7-8 years.<sup>148</sup> In Northern Ireland, 11 year olds undergoing Stage 2 testing may also be taking the Transfer Test, which determines access to second level education.<sup>149</sup> This emphasis on testing children at such a young age and pressure on teachers to improve performance in the national tests in English and mathematics has resulted in a serious narrowing of the curriculum. Subjects like child care have been dropped, and others such as art, music and religious education receive less time. This narrowing of the curriculum is also evident in secondary schools where schools are spending less time on spiritual development, personal and social education and education about health and parenting matters.<sup>150</sup>

### **Recommendations**

219. The principles and provisions of the Convention should inform the teaching, structures and management of the school system.
220. Measures should be put in place to ensure that the drive to improve standards does not diminish opportunities for children to experience a broad range of subjects and activities.

### **Right to play, leisure, recreation and cultural activities (art. 31)**

221. There is no statutory recognition of the child's right to play and no strategy on play and leisure in any of the UK's jurisdictions.<sup>151</sup>

## **Recommendation**

222. There should be a statutory duty on local authorities to make adequate and appropriate provision for children's play and leisure activities from birth to 18, based on the principles and values of the Convention and established best practice, with children's full participation.

## **VIII. Special Protection Measures**

### **Rights of refugee children and those seeking refugee status (art 22)**

#### *Detention*

223. There is serious concern about legislation which permits the detention of asylum seekers, including children alone and with their families.<sup>152</sup> Proposals to introduce accommodation centres also cause concern.<sup>153</sup>

#### *Financial Support*

224. The Government's decision to abolish the voucher system whereby asylum seekers receive vouchers instead of cash benefits is welcome.<sup>154</sup> At the same time, there is serious concern about the inadequate levels of state financial support, which such families receive.<sup>155</sup>

#### *Dispersal*

225. Asylum seekers are dispersed involuntarily to different parts of the UK, and this policy can cause acute problems for asylum seekers and the community to which they are moved where there is inadequate planning, preparation and integration into the community. For example, in Glasgow alone the number of refugee families from over 40 different nationalities increased from 300 to 5,000 in 2001. This has led to an escalation in racially related incidents and the murder of a young asylum seeker in Glasgow.<sup>156</sup>

226. Unaccompanied minors who can prove their age are not subject to the dispersal scheme and are cared for by social services. However, they may be placed in bed and breakfast accommodation, which is entirely inappropriate.

#### *Processing applications – Government claims*

227. Although new applications are now being decided more speedily, many families have waited - and continue to wait - for years to have them processed. Moreover, government claims about the time now taken to process applications are not entirely accurate as they do not cover all of the periods families have to wait.<sup>157</sup>

#### *Children's Panel of Advisers – Government claims*

228. Although the introduction in England in 1994 of a Children's Panel of Advisers for unaccompanied minors was welcome,<sup>158</sup> there is concern that the system is now under severe pressure due to the increase in the numbers of children and inadequate funding.<sup>159</sup>

#### *New proposals*

229. The Government set out its "radical and fundamental reform" of the asylum and immigration systems in its White Paper in February 2002. However, it fails to address the particular needs of asylum seeker children and is not child-friendly. For example,

- ◆ All asylum seekers are to be issued with ID cards with a photograph and fingerprints;
- ◆ 3000 asylum seekers are to be placed immediately in an "induction centre" and then moved either to an accommodation centre or to a removal centre (4 new centres are planned, each with 750 beds); the dispersal system will continue for most asylum seekers;

- ◆ Accommodation centres will offer full board and lodging, education for children and "purposeful activity" for adults;
- ◆ The voucher scheme is to be replaced by a "less socially divisive" scheme.<sup>160</sup>

### **Recommendations**

230. The Government's reform of the immigration and asylum system should be used to bring it into line with the Convention's principles and provisions. In particular, such children should never be placed in detention.
231. Asylum seeker families should receive at least the same benefits as other vulnerable families and more investment in appropriate support services for the children of these families is needed.
232. The Government should carry out a UK-wide review of the availability and effectiveness of legal representation and other forms of independent advocacy to unaccompanied minors and other children in the immigration and asylum systems.
233. Asylum seekers under 18 should be accommodated as 'children in need' under the child care legislation.
234. Law reform should ensure that young refugees and asylum seekers who have settled into a particular area are not dispersed when they reach 18.
235. There is an overall need for more thorough and sensitive planning, preparation and integration of, as well as support for, refugee families in communities.

### **Children in armed conflict (art. 38)**

#### *National recruitment*

236. There is no conscription into the armed forces of the UK. With parental consent, both girls and boys may enlist at the age of 16 and the Government has persistently objected to raising the international minimum age for voluntary recruitment and participation in hostilities to 18.<sup>161</sup>

#### *Use of Plastic Bullets*

237. Police and army in Northern Ireland continue to use plastic bullets, which have killed children in the past. The power to use plastic bullets has been extended to all police forces elsewhere in the UK.<sup>162</sup>

#### *Conflict in Northern Ireland*

238. In 1995, the Committee recommended that the emergency and other legislation in force in Northern Ireland be reviewed to ensure its consistency with the principles and provisions of the Convention.<sup>163</sup> This has not been done and the emergency laws still apply to children. Currently, for example, a child as young as ten can be detained without charge for 7 days, have access to a solicitor withheld for up to 48 hours and have no right to a solicitor present during interview. The right to an appropriate adult is not enforceable.<sup>164</sup>
239. In 2000, Olara A Otunnu, Special Representative of the UN Secretary General for Children and Armed Conflict, expressed concern about the impact of the conflict on children in Northern Ireland. The Special Representative stressed the importance of making children's concerns a priority, listening to their voices through the building of the peace process, and incorporating their rights into the Bill of Rights.<sup>165</sup>

## Recommendations

240. The Government should ratify the Optional Protocol on Children in Armed Conflict without delay and without reservation. It should withdraw the sweeping declaration made on signature.
241. When making international financial or military assistance conditional on the non-use of child soldiers by government forces, the Government should require a minimum recruitment age of 18.
242. The Government should inform the Committee on what action it is taking to protect Muslim children living in the UK from any repercussions of the ongoing "war on terrorism".
243. A review of the application of emergency legislation in Northern Ireland should be undertaken without delay and a study of the effect of the conflict on children undertaken to inform future policy development.
244. Government should stop the use of plastic bullets in all jurisdictions immediately.

## The Administration of Juvenile Justice (art. 40)

245. In 1995, the Committee on the Rights of the Child recommended that 'law reform be pursued in order to ensure that the system of administration of justice is child-orientated'.<sup>166</sup> Serious concerns remain about the compatibility with the Convention of existing law and practice.<sup>167</sup>

### *Age of criminal responsibility*

246. In 1995 the Committee recommended that serious consideration be given to 'raising the age of criminal responsibility throughout the areas of the UK'.<sup>168</sup> The age of criminal responsibility remains at ten years (8 in Scotland) and the principle of *doli incapax* has been abolished in England, Wales and Northern Ireland.<sup>169</sup> 17 year olds are treated as adults in the criminal justice system.<sup>170</sup>

### *Young children*

247. In England and Wales, Child Safety Orders can be made in respect of a child under ten years if s/he has committed an act which would have been an offence if committed when over ten years old, or if s/he has breached a curfew or is considered to be behaving in an anti-social manner. Accordingly, there is no lower age limit for children's involvement in the juvenile justice system in this jurisdiction.<sup>171</sup>
248. The introduction of Anti-Social Behaviour Orders (ASBOs) in England and Wales also raises concerns given that although the orders are made in civil proceedings, their breach can result in up to five years' imprisonment.<sup>172</sup>

### *The court system*

249. The Government's Report refers to the proposals in England and Wales to introduce youth offending panels for first time offenders who plead guilty (a referral order).<sup>173</sup> There is serious concern about children's lack of legal representation and the risk of panels making "contracts" with children that are disproportionate and restrictive of children's liberty (they are mandatory for the most minor of offences).<sup>174</sup>
250. Other aspects of the current and proposed operation of the courts also raise serious concern. The Crime and Disorder Act 1998 replaced informal actions (and cautions) with a new system of reprimands and final warnings. These are limited by legislation in number for each individual. However, both may be cited in court in addition to any *perceived* (no requirement of proof) failure to comply with work programmes imposed by the new youth offending team staff and may therefore influence decisions in court in the same way as court convictions. There is no specific means by which a child can challenge a report of non-compliance with a final warning when it is cited in court).

Further, a warning precludes the use of a conditional discharge in court for two years (except in exceptional circumstances).<sup>175</sup>

251. The Crime and Disorder Act 1998 has extended the court's power to draw inferences from the failure of an accused child to give evidence or answer questions at trial to those under 14 years.<sup>176</sup> Concerns exist in Northern Ireland in this context also.

252. Under legislation in England, Wales and Northern Ireland, children can be tried in adult courts where their co-defendant is an adult or if the offence is sufficiently serious to place it outside the jurisdiction of the Youth Court.<sup>177</sup> Concerns also exist about the extent to which the child's right to privacy is protected during criminal proceedings.<sup>178</sup>

### **Children deprived of their liberty (art. 37)**

253. Detention of children in the UK is not always used as a measure of last resort and for the shortest period of time. In Scotland, children as young as 14 may be held as suspects in police cells and in Northern Ireland, children are frequently held overnight in a juvenile justice centre prior to their court appearance and others are detained for longer periods on remand. The population of detention centres thus fluctuates constantly and in 2000, for example, only 15% of those admitted to custody were there pursuant to sentence by a court.<sup>179</sup> In England, 12 year olds can be remanded in secure accommodation and upon release, children are subject to more restrictions of liberty as enforceable conditions of supervision in the community than are adults serving an equivalent sentence.<sup>180</sup> Moreover, across the UK boys and girls as young as 15 are being detained in adult prisons, significant distances from their families due to the lack of appropriate, secure accommodation for children.<sup>181</sup>

254. The provisions of child care and child protection legislation do not apply to children in custody.<sup>182</sup>

255. Problems exist in relation to the treatment of children in custody across the UK. In Northern Ireland, juvenile justice centres fail to secure the rights of children to adequate health care, protection from abuse, individualised treatment programmes, education and vocational training and frequent contact with family and friends in privacy.<sup>183</sup> Similar problems have been found to exist in England in relation to the Medway and Hassockfield Secure Training Centres.<sup>184</sup> Overall, it is clear that secure custodial provision for young people in the UK is failing to prevent young people from reoffending and failing to fulfil the aims and objectives set out in the Convention and other UN standards.

256. Provision for the mental health of young people in detention is seriously lacking with high incidents of self-harm.<sup>185</sup> Anti-bullying strategies have so far fail to tackle the problem.<sup>186</sup> The inadequacy of educational provision in the custody setting has already been highlighted above.<sup>187</sup>

257. There is concern about the extent to which children and young people in custody enjoy access to an independent complaints mechanism and redress for alleged breaches of their rights. The inadequacy of the complaints system and difficulty accessing it are cause for concern in juvenile justice systems in both England and Northern Ireland.<sup>188</sup>

### **Recommendations**

258. Legislation, policy and practice relating to justice and detention should be reviewed and revised to give full effect to the rights of children under the Convention.
259. The principle of detention as a last resort and for the shortest period of time must be enshrined in legislation and inform all policy.
260. The Government should modernise its approach to the detention and custody of children in line with the Convention.
261. As a matter of urgency the Government should prepare a national strategy on removing children from the adult prison system in order to ensure that children are always separated from adults in detention unless it is considered not to be in their best interests.
262. The conditions in detention require urgent Government action, with particular attention to children's right to survival and development, basic health and welfare, education, right to protection from violence and the right to periodic review.
263. All children in custody should have access to independent advocacy services.
264. The custodial penalty for breach of anti-social behaviour orders in England and Wales should be repealed, and a review process instituted for children subject to such orders, taking into account their evolving capacities and changing circumstances.
265. The Youth Justice Board in England and Wales should be required to work within the provisions of the Convention and to have a substantial role in promoting positive public attitudes towards children.

### **Economic Exploitation of Children (art. 32)**

266. The national minimum wage does not apply to child workers despite UK legislation permitting children to work part-time from the age of 13 years. Moreover, a lower "youth rate" applies to 18 to 21-year-olds.<sup>189</sup>
267. There is evidence that child workers are exposed to dangerous conditions, work long hours for little money and do not have access to trade union membership.<sup>190</sup>

### **Recommendations**

268. Government should ensure that information on employment protection and the role of trades unions is disseminated to all children of working age, through schools, leisure and sports facilities and other appropriate channels.
269. The minimum wage should be extended to children.

### **Protection from drug abuse (art. 33)**

270. Home Office research has shown that rates of cocaine use were 12 times higher among young offenders compared to non-offenders and one in ten rough sleepers were using a Class A drug at least monthly. Over 80% of serial runaways had used illicit drugs compared to 42% of young people who had never run away from home.<sup>191</sup>
271. In Northern Ireland, evidence suggests that strategies designed to prevent young people from becoming involved in drug taking and treating those that have, have so far, been unsuccessful. In 2002, 45% of all 14 year olds were reported to have been offered drugs.<sup>192</sup>

### **Sexual Exploitation and Sexual Abuse**

272. Legislation in Northern Ireland does not prohibit kerb crawling (where a person solicits from a motor vehicle) so that child prostitutes are even more at risk here than elsewhere in the UK.<sup>193</sup>

### **Prevention of sale, trafficking and abduction (art. 35)**

273. The law still criminalises children involved in prostitution.<sup>194</sup>

274. The UK, having signed up to the Stockholm Congress Declaration, recognises that the commercial sexual exploitation of children is a serious problem in the UK and elsewhere. The UK Immigration service estimates that up to 200 Nigerian girls as young as 11 have recently been trafficked from West Africa and unaccompanied asylum seekers who have gone missing from local authority care are known to have been trafficked to Italy for sexual purposes.<sup>195</sup>

#### **Recommendations**

275. The Government produced a National Plan in September 2001 and it should adopt strategic planning and co-ordinated action across government without delay.

276. Consideration should be given to creating a specific offence of commercial sexual exploitation of children as recommended by the Home Office Sexual Offences review.<sup>196</sup>

277. The law making kerb crawling illegal should be extended to Northern Ireland.

#### **Children belonging to a minority or an indigenous group (art. 30)**

278. There are concerns about the extent to which insufficient funding hampers the ability of the Welsh Language Board to monitor and evaluate the impact of the many initiatives designed to promote the Welsh language, particularly regarding Welsh medium education. Moreover, the Welsh Language Act 1993, designed to establish parity between the English and Welsh languages, is limited in scope to the public sector.

#### **Recommendations**

279. Children's right to enjoy their own culture, religion and language should be enshrined in education, health and juvenile justice legislation.

280. Effective measures should be adopted to ensure that all children in Wales have the right to learn and use the Welsh language.

## **Notes**

<sup>1</sup> See Scottish Alliance for Children's Rights, *All Children All Ages: The NGO Alternative Report (Scotland) to the UN Committee on the Rights of the Child*, 2000 (hereinafter Scotland Shadow Report) with an update at December 2001 and March 2002 (hereinafter Scotland Update); The Children's Law Centre & Save the Children (Northern Ireland), *Submission to the UN Committee on the Rights of the Child for consideration during the Committee's scrutiny of the UK Government's Report*, February 2002 (hereinafter Northern Ireland Shadow Report) ; Children in Wales & Save the Children (Wales), *Wales Alternative Report for the Committee on the Rights of the Child*, December 2001 (hereinafter Wales Shadow Report). Children's Rights Alliance (England), *Report to the pre-sessional working group of the Committee on the Rights of the Child, preparing for examination of the UK's Second Report under the Convention on the Rights of the Child*, March 2002 (hereinafter England Shadow Report).

<sup>2</sup> Consideration of reports submitted by states parties under Article 44 of the Convention: UK of Great Britain and Northern Ireland, 15/2/95 (hereinafter Concluding Observations) paras 7 and 22.

<sup>3</sup> *Second Report to the UN Committee on the Rights of the Child by the UK*, 1999 (hereinafter Second UK Report) paras 7.31.1 - 7.31.5, p 78. Its position was reiterated in its supplementary report to the UN Human Rights Committee in October 2001.

<sup>4</sup> Second UK Report, paras 10.45.1- 10.45.3, p 189.

<sup>5</sup> See Sir David Ramsbotham, Her Majesty's Chief Inspector of Prisons (June 2001) *Follow-up to 1997 Thematic review 'Women in Prison'*, June 2001. See further below Section VIII Special Protection Measures.

<sup>6</sup> England Shadow Report, p 3.

<sup>7</sup> See Section IV Civil Rights and Freedoms and Section VIII Special Protection Measures below.

<sup>8</sup> Scotland Update, p 3.

<sup>9</sup> Concluding Observations, paras 8 and 23.

<sup>10</sup> See Scottish Shadow Report, p 10.

<sup>11</sup> Northern Ireland Shadow Report, p 6.

- <sup>12</sup> See Scottish Shadow Report, p 10; Northern Ireland Shadow Report, p 6 and England Shadow Report p 3.
- <sup>13</sup> Scottish Shadow Report, p 9.
- <sup>14</sup> England Shadow Report, p 2.
- <sup>15</sup> Wales Shadow Report, para 2.2. 1, p 10.
- <sup>16</sup> Wales Shadow Report, para 2.2.3, p 11.
- <sup>17</sup> Northern Ireland Shadow Report, p 12.
- <sup>18</sup> The Commission has expressed its concern to the Secretary of State for Northern Ireland about the inadequacy of its powers. See its Report to the Secretary Of State Required by Section 69(2) of the Northern Ireland Act 1998, February 2001 at [www.nihrc.org](http://www.nihrc.org)
- <sup>19</sup> Scotland Shadow Report, Update at 11 March 2002, p 4.
- <sup>20</sup> England Shadow Report p 3.
- <sup>21</sup> Scotland Shadow Report, p 20.
- <sup>22</sup> Northern Ireland Shadow Report, p 12.
- <sup>23</sup> Examples are the Early Advisory Panel; the Childcare Strategy Taskforce; Young Voice - Llais Ifanc; Child and Adolescent Mental Health Strategy; Extending Entitlement; Framework for Partnership for Children and Young People.
- <sup>24</sup> See, for example, Scotland Shadow Report, p 9 which highlights that in one survey 34% of children had heard of the Convention, and Northern Ireland Shadow Report, p 6, which reports that 75% of children and young people had never heard of it.
- <sup>25</sup> Scotland Update, p 6.
- <sup>26</sup> See Northern Ireland Human Rights Commission, *In our Care: Promoting the Rights of Children in Custody*, 2002.
- <sup>27</sup> See Section VIII Special Protection Measures below.
- <sup>28</sup> England Shadow Report, p 27.
- <sup>29</sup> England Shadow Report, p 26.
- <sup>30</sup> Northern Ireland Shadow Report; p 17; England Shadow Report, p 19 and Scotland Shadow Report, p 19.
- <sup>31</sup> England Shadow Report, p 5.
- <sup>32</sup> Concluding Observations, paras 11 and 12.
- <sup>33</sup> See Section VI Basic Health and Welfare below.
- <sup>34</sup> Scotland Shadow Report, p 17 and 22 and Update, p 5.
- <sup>35</sup> Northern Ireland Shadow Report, pp 15-16.
- <sup>36</sup> England Shadow Report, p 16.
- <sup>37</sup> Scotland Shadow Report, p 17 and Wales Shadow Report, para 2.1.7. See Section VI Basic Health and Welfare below.
- <sup>38</sup> Concluding Observations, para 25.
- <sup>39</sup> England Shadow Report p 20.
- <sup>40</sup> Northern Ireland Shadow Report, p 16.
- <sup>41</sup> Scotland Shadow Report, p 3.
- <sup>42</sup> Scotland Shadow Report, p 5 and Update p 2.
- <sup>43</sup> Scotland Update, p 3 and Northern Ireland Shadow Report, pp 5, 17-19.
- <sup>44</sup> Wales Shadow Report, para 2.1.3; Northern Ireland Shadow Report, p 19; Scotland Update, p 2 and England Shadow Report p 20.
- <sup>45</sup> Northern Ireland Shadow Report, pp 5, 17-19.
- <sup>46</sup> England Shadow Report, p 6; Scotland Shadow Report, p 24 and Update, p 2. See further Section VIII Special Protection Measures below.
- <sup>47</sup> England Shadow Report, p 20. Northern Ireland Shadow Report, p 19.
- <sup>48</sup> England Shadow Report, pp 20-21.
- <sup>49</sup> England Shadow Report, p 19.
- <sup>50</sup> Concluding Observations, para 27.
- <sup>51</sup> Scotland Update, p 5.
- <sup>52</sup> Concluding Observations, para 15.
- <sup>53</sup> England Shadow Report pp 18-19; Scotland Shadow Report, p 6; Northern Ireland Shadow Report, p 9 and Wales Shadow Report, para 2.1.2.
- <sup>54</sup> Wales Shadow Report, para 2.1.2 and England Shadow Report p 18.
- <sup>55</sup> Northern Ireland Shadow Report, p 18; Wales Shadow Report para 2.1.2; Scotland Shadow Report, pp 6-7.
- <sup>56</sup> England Shadow Report pp 1 and 19.
- <sup>57</sup> See Section VI Basic Health and Welfare and Section VII Education and Leisure Activities below.
- <sup>58</sup> Scotland Shadow Report, p 19. England Shadow Report, p 7.

- <sup>59</sup> See Section VI Basic Health and Welfare below in relation to the child's right to access mental health services.
- <sup>60</sup> England Shadow Report, p 7.
- <sup>61</sup> England Shadow Report, p 7. See Section V Family Environment and Alternative Care below.
- <sup>62</sup> England Shadow Report, p 23.
- <sup>63</sup> Northern Ireland Shadow Report, p 9.
- <sup>64</sup> Wales Shadow Report, para 2.1.3.
- <sup>65</sup> Northern Ireland Shadow Report, p 4. The Special Representative visited Northern Ireland again in December 2001 and will report to the Secretary General in 2002.
- <sup>66</sup> England Shadow Report, p 15; Wales Shadow Report, para. 2.1.6 and Northern Ireland Shadow Report, p 10.
- <sup>67</sup> Concluding Observations, para 32.
- <sup>68</sup> Northern Ireland Shadow Report, p 10 and England Shadow Report, p 14.
- <sup>69</sup> Wales Shadow Report, para 2.1.3.
- <sup>70</sup> England Shadow Report, p 8.
- <sup>71</sup> England Shadow Report, p 27.
- <sup>72</sup> Scotland Shadow Report, p 15.
- <sup>73</sup> England Shadow Report, p 14.
- <sup>74</sup> For further details see Wales Shadow Report, para 2.2.1; Northern Ireland Shadow Report, p 10; Scotland Shadow Report, p 7 and England Shadow Report, p 8.
- <sup>75</sup> England Shadow Report, p 9.
- <sup>76</sup> England Shadow Report, p 9.
- <sup>77</sup> England Shadow Report, p 9.
- <sup>78</sup> England Shadow Report, p 9.
- <sup>79</sup> England Shadow Report, p 10.
- <sup>80</sup> England Shadow Report, p 10.
- <sup>81</sup> Scotland Shadow Report, p 11.
- <sup>82</sup> Wales Shadow Report, para 3.1.1, England Shadow Report, p 10.
- <sup>83</sup> Scotland Shadow Report, p 11.
- <sup>84</sup> Northern Ireland Shadow report, p 11.
- <sup>85</sup> *T v UK and V v UK*, judgments of the European Court of Human Rights, 16 December 1999.
- <sup>86</sup> *Venables and Thompson v News Group Newspaper Limited*, High Court, 8<sup>th</sup> January 2001.
- <sup>87</sup> Scotland Shadow Report, p 11. England Shadow Report, pp 10-11.
- <sup>88</sup> England Shadow Report, p 11.
- <sup>89</sup> England Shadow Report, p 11.
- <sup>90</sup> Northern Ireland Human Rights Commission, *In Our Care: Promoting the Rights of Children in Custody* (2002), pp 122-133. England Shadow Report, p 10.
- <sup>91</sup> Northern Ireland Shadow Report, pp 11-12; Wales Shadow Report, para 6.1.2 and England Shadow Report, p 11.
- <sup>92</sup> England Shadow Report, p 11.
- <sup>93</sup> See for example the *Extending Entitlement* initiative of the National Assembly for Wales. Wales Shadow Report, para 6.1.2.
- <sup>94</sup> Northern Ireland Shadow Report, pp 12-13; Wales Shadow Report, para 2.2.2 and England Shadow Report, p 13.
- <sup>95</sup> England Shadow Report, p 16.
- <sup>96</sup> Northern Ireland Shadow Report, p 13.
- <sup>97</sup> Scotland Shadow Report, p 16.
- <sup>98</sup> England Shadow Report, pp 14-15.
- <sup>99</sup> Northern Ireland Shadow Report, p 13.
- <sup>100</sup> Northern Ireland Shadow Report, pp 13-14
- <sup>101</sup> England Shadow Report, p 14.
- <sup>102</sup> Scotland Shadow Report, p 16. England Shadow Report, p 15.
- <sup>103</sup> Wales Shadow Report, para 2.2.2.
- <sup>104</sup> England Shadow Report, p 3.
- <sup>105</sup> England Shadow Report, p 15.
- <sup>106</sup> England Shadow Report, p 15.
- <sup>107</sup> Northern Ireland Shadow Report, p 14.
- <sup>108</sup> Northern Ireland Shadow Report, p 14. England Shadow Report, p 15.
- <sup>109</sup> Concluding Observations, para 31.
- <sup>110</sup> *A v UK*, judgment of the European Court of Human Rights, 23 September 1998.

- <sup>111</sup> *TP and KM v UK and Z and Others v UK*, judgments of the European Court of Human Rights, 10<sup>th</sup> May 2001.
- <sup>112</sup> England Shadow Report, pp 12-13.
- <sup>113</sup> England Shadow Report, pp 12-13.
- <sup>114</sup> Northern Ireland Shadow Report, p 12.
- <sup>115</sup> Northern Ireland Shadow Report, p 12.
- <sup>116</sup> Scotland Update, p 4.
- <sup>117</sup> Scotland Shadow Report, pp 13-14; England Shadow Report, p 12.
- <sup>118</sup> Scotland Shadow Report, p 14; Northern Ireland Shadow Report, p 12; Wales Shadow Report, para 6.1.1 and England Shadow Report, p 13.
- <sup>119</sup> Scotland Shadow Report, p 17. England Shadow Report, pp 16-17.
- <sup>120</sup> Wales Shadow Report, para 2.1.7; Scotland Shadow Report, pp 17 and 22 and England Shadow Report, pp 16-17.
- <sup>121</sup> England Shadow Report, p 17.
- <sup>122</sup> See Section III General Principles above.
- <sup>123</sup> England Shadow Report, p 17.
- <sup>124</sup> Scotland Shadow Report, p 18.
- <sup>125</sup> Scotland Shadow Report, p 7.
- <sup>126</sup> Wales Shadow Report, para 2.1.2.
- <sup>127</sup> Second UK Report, para 8.20.1.
- <sup>128</sup> See Section III General principles above.
- <sup>129</sup> Scotland Shadow Report, p 18; Northern Ireland Shadow Report, p 16. England Shadow Report, p 18.
- <sup>130</sup> England Shadow Report, p 18.
- <sup>131</sup> Concluding Observations, para 30.
- <sup>132</sup> England Shadow Report, p 18.
- <sup>133</sup> Second UK Report, paras 8.21 -8.24.
- <sup>134</sup> Scotland Shadow Report, p 19. Northern Ireland Shadow Report, p 11.
- <sup>135</sup> See Section III General Principles.
- <sup>136</sup> England Shadow Report, p 19.
- <sup>137</sup> Concluding Observations, para 15.
- <sup>138</sup> Scotland Shadow Report, p 19; Northern Ireland Shadow Report p 9. England Shadow Report, p 19.
- <sup>139</sup> Scotland Shadow Report, p 26; Northern Ireland Shadow Report p 9.
- <sup>140</sup> Northern Ireland Shadow Report, p 17.
- <sup>141</sup> Section III General Principles above.
- <sup>142</sup> Section III General Principles above
- <sup>143</sup> Scotland Shadow Report, p 23. England Shadow Report, p 21.
- <sup>144</sup> Scotland Shadow Report, p 23. Northern Ireland Shadow Report, p 20. See also Section III Basic Principles above.
- <sup>145</sup> England Shadow Report, p 21.
- <sup>146</sup> Northern Ireland Shadow Report, p 20. England Shadow Report, p 21.
- <sup>147</sup> England Shadow Report, p 21.
- <sup>148</sup> England Shadow Report, p 22.
- <sup>149</sup> Northern Ireland shadow Report, p 21.
- <sup>150</sup> England Shadow Report, p 22-23.
- <sup>151</sup> Scotland Shadow Report, p 24; Northern Ireland Shadow Report, p 21 and England Shadow Report, p 23.
- <sup>152</sup> England shadow Report, p 24.
- <sup>153</sup> Scotland Update, p 2.
- <sup>154</sup> England Shadow Report, p 24.
- <sup>155</sup> See Section II General Principles above.
- <sup>156</sup> Scotland Update p 2; England Shadow Report, p 24.
- <sup>157</sup> England Shadow Report, p 24.
- <sup>158</sup> Second UK Report, para 10.10.
- <sup>159</sup> England Shadow Report, p 25.
- <sup>160</sup> England Shadow Report, p 25.
- <sup>161</sup> England Shadow Report, pp 29-30.
- <sup>162</sup> Northern Ireland Shadow Report, pp 24-25.
- <sup>163</sup> Concluding Observations, para 34.
- <sup>164</sup> Northern Ireland Shadow Report, p 24.

- <sup>165</sup> Northern Ireland Shadow Report, p 22.
- <sup>166</sup> Concluding Observations, para 35.
- <sup>167</sup> England Shadow Report, pp 26-29.
- <sup>168</sup> Concluding Observations, para 36.
- <sup>169</sup> Northern Ireland Shadow Report, p 23; England Shadow Report, p 26. See Section II Definition of the Child above.
- <sup>170</sup> Northern Ireland Shadow Report, p 23.
- <sup>171</sup> England Shadow Report, p 26.
- <sup>172</sup> England Shadow Report, p 26.
- <sup>173</sup> Second UK Report, para 10.2.9
- <sup>174</sup> England Shadow Report, p 27.
- <sup>175</sup> England Shadow Report, p 27.
- <sup>176</sup> Second UK Report, para 10.24.1
- <sup>177</sup> See Section III General Principles above.
- <sup>178</sup> See Section IV Civil Rights and Freedoms above.
- <sup>179</sup> Scotland Shadow Report, p 27 and Northern Ireland Report, p 25.
- <sup>180</sup> England Shadow Report, p 27.
- <sup>181</sup> Northern Ireland Shadow Report, p 24. England Shadow Report, p 27.
- <sup>182</sup> Northern Ireland Shadow Report, p 25. England Shadow Report, p 28.
- <sup>183</sup> Northern Ireland Human Rights Commission, *In Our Care: Promoting the Rights of Children in Custody*, 2002.
- <sup>184</sup> England Shadow Report, pp 27-29.
- <sup>185</sup> Northern Ireland Shadow Report, p 25 and England Shadow Report, p 28.
- <sup>186</sup> England Shadow Report, p 28.
- <sup>187</sup> Section III General Principles.
- <sup>188</sup> Northern Ireland Shadow Report, p 25 and England Shadow Report, p 29.
- <sup>189</sup> England Shadow Report, p 26.
- <sup>190</sup> Scotland Shadow Report, p 25. England Shadow Report, p 26.
- <sup>191</sup> England Shadow Report, p 26.
- <sup>192</sup> Northern Ireland Shadow Report, p 26.
- <sup>193</sup> Northern Ireland Shadow Report, p 26.
- <sup>194</sup> England Shadow Report, p 26.
- <sup>195</sup> England Shadow Report, p 26.
- <sup>196</sup> England Shadow Report, p 26.