



## Review of the Youth Justice System in Northern Ireland

### Key Findings from Primary Research

*Childhood, Transition and Social Justice Initiative*

*Queen's University, Belfast*

[www.qub.ac.uk/ctsji](http://www.qub.ac.uk/ctsji)



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## **CHILDHOOD, TRANSITION AND SOCIAL JUSTICE INITIATIVE QUEEN'S UNIVERSITY BELFAST**

The Childhood, Transition and Social Justice Initiative is an interdisciplinary team of researchers from across Queen's University Belfast. Engaged in projects seeking to challenge the structural marginalisation of children and young people, our research is underpinned by the principles of social justice. We aim to raise awareness at an individual and community level, as well as inform local policy and practice. We are concerned about issues of social exclusion, particularly in the contexts of the transitions experienced by all children and young people and Northern Ireland's societal transition from armed conflict. Yet, political-economic marginalisation and social-cultural exclusion are global issues. The Initiative is committed to comparative analysis and/ or collaborative research with strong connections in Europe, Australia, South Africa, Canada and the USA.

The Initiative adopts a critical rights-based perspective grounded in, but moving beyond, international human rights conventions and standards. Through our research we consider how rights, particularly those promoted and protected by the *UN Convention on the Rights of the Child*, impact on the everyday lives of children and young people. Rather than focus solely on the implementation of international standards, however, we consider the contexts in which they emerged and consolidated, the structural barriers to their implementation and the potential of their implementation for positive change.

### **ABOUT THE INITIATIVE**

Taking the concepts of childhood, transition and social justice in their broadest sense, the Initiative engages critically with academic, political and popular discourses. Key to our work is analysis of the social, economic and political contexts of children and young people's lives and development. We recognise the persistence of inequalities based on class, gender, age, ethnicity, ability, locality and sexual orientation, and our work explores how multiple inequalities affect the 'choices' and opportunities available to different social groups.

At a time of political, economic and social change in Northern Ireland, our research engages with, and contributes to, debates about: poverty and the legacy of the Conflict in Northern Ireland; interpretations of 'anti-social behaviour' and 'crime'; regulation and social control of young people; children and young people in custody; the impact of parents in prison on children's lives; media representations of children and young people; the 'invisibility' of girls and young women; the realities of 'transition from conflict' for those excluded from the mainstream political debate; and the meaning of children's rights for some of the most marginalised groups.

We have undertaken research on a number of issues relating specifically to childhood, transition and social justice:

- Child exploitation and protection
- Children's rights and participation
- Conflict and marginalisation
- Criminalisation of children and young people
- Education
- Gender and sexualities
- Imprisonment of children and young people
- Media representations of children and young people
- Mental health
- Youth Justice
- Youth transitions and social exclusion

Recognising that research can reinforce the power imbalances with which we are concerned, our research is action-based in focus and underpinned by the principles of children's rights. We seek to respect, understand and empower those involved, recognising their expertise (as children, young people, young women, practitioners, parents/carers, community members), and prioritising their views or experiences. We aim to ensure that our research is relevant, engaging and consciousness-raising and that research findings are disseminated in a manner appropriate to all audiences.

In addition to conducting research and sharing its messages, Initiative members also seek to inform policy and practice developments in Northern Ireland and in neighbouring jurisdictions. We respond to consultations relating to the lives of children and young people, and support voluntary/community groups through workshop presentations, voluntary work and membership of steering groups/ management committees. We are committed to proactive responses to the research needs and demands of the sector through regular consultation with those working with children and young people. While our work has a distinct focus on Northern Ireland, it engages with international debates about the structural experiences of children and young people, seeking to identify and promote examples of good practice.

### **SEMINAR SERIES**

Involving those with whom we have established working relationships, the Initiative has developed a two-day Seminar Series over exploring key issues affecting the lives of children and young people in Northern Ireland.

*Living in a Divided Society (12<sup>th</sup> - 13<sup>th</sup> April 2010)*

*Health, Well-being and Support (28<sup>th</sup> - 29<sup>th</sup> June 2010)*

*Media Representations of Children and Young People (13<sup>th</sup> - 14<sup>th</sup> Sept 2010)*

*Regulation and Criminalisation of Children and Young People (24<sup>th</sup> - 25<sup>th</sup> Jan 2011)*

*Gender, Sexuality and Power (18<sup>th</sup> - 19<sup>th</sup> April 2011)*

*Children's Rights and Ways Forward (27<sup>th</sup> - 28<sup>th</sup> June 2011)*

## **RESEARCH, FINDINGS AND PUBLICATIONS RELEVANT TO THE YOUTH JUSTICE REVIEW**

What follows is an overview of recent research relevant to the Youth Justice Review. Each project is introduced by a brief introduction to the research followed by key issues, findings or recommendations directly concerning children in conflict with the law.

**McAlister, S., Scraton, P and Haydon, D. (2010) *Childhood in Transition: Experiencing Marginalisation and Conflict in Northern Ireland* Belfast: Queen's University, Save the Children, The Prince's Trust, pp 147-156**

### **The Research**

This community-based research project was established as a partnership between Queen's University, Save the Children and The Prince's Trust. The aim of the research was to understand and explore the lives of children and young people living in those communities in Northern Ireland enduring the legacy of the Conflict and persistent economic disadvantage. The project produced extensive data, drawn from in-depth qualitative research with children, young people and community representatives. It challenged positive assumptions made in official discourse and media commentaries that Northern Ireland as a 'society in transition' is making significant progress in promoting community development and safeguarding the rights of children and young people. The research is covered in chapters: *Images of Children and Young People; Personal Life and Relationships; Education and Employment; Community and Policing; Place and Identity; Segregation and Sectarianism; Violence in the Context of Conflict and Marginalisation; Services and Support; The Rights Deficit*. What follows are the key issues raised in each chapter.

### ***Images of children and young people***

- Children considered that they were respected and supported within their families and communities.
- For many young people, rejection and exclusion by adults was a common experience in their families and in their communities.
- The expectations and responsibilities placed on young people, in the home, in school and in their community, were not matched by appropriate information, advice and support.
- Young people described the difficulties they faced in the transition from 'childhood' to 'adolescence' – a period when they experienced physical and emotional change but a perceived loss of adult protection and support.
- Young people considered the labelling of their behaviour as 'anti-social' or 'criminal' by sections of the media to be an unfair and unfounded misrepresentation. This was deeply resented.

- In all focus groups conducted with children and young people, there was evidence of diminished self-esteem impacting on their emotional well-being. While some young people responded through being hostile, angry and volatile – often bolstered by alcohol – others withdrew into themselves.
- Well-conceived and adequately resourced intergenerational initiatives challenged negative reputations and stereotypes that prevailed within communities.
- Promotion and protection of children’s rights is central to development of positive interventions, opportunities to challenge discrimination and stereotyping, secure free association, promote participation and create the conditions for good health and well-being among children and young people.

### ***Personal life and relationships***

- Children, more than young people, felt that adults were likely to listen to and respect their views.
- In their families and communities young people often felt pre-judged by adults, without having the opportunity to have their views or accounts taken into consideration.
- Children felt it was important to be consulted to ensure their safety. Young people believed they should be consulted because their views were as valid as those of adults.
- When children and young people were consulted and included in decision-making processes they felt respected, cared for and positive about themselves. Lack of consultation led to feelings of disrespect, exclusion, sadness and anger.
- Young people often explained negative or anti-social behaviour by some young people as a response to feelings of exclusion and rejection within their communities. This view was shared by a number of community representatives.
- Children and young people regularly identified an individual community or youth worker with whom they shared mutual respect. ‘Trust’, ‘care’ and ‘understanding’ were central to these relationships.
- Difficult circumstances experienced during childhood often led to individuals displaying violent and/or risky behaviours. For these young people, developing strong relationships with respected and trusted adults compensated for lack of family support.
- Community representatives noted the dual impact of poverty and the legacy of the Conflict on families. ‘Transgenerational trauma’, low incomes and ‘multi-generational poverty’, poor health and well-being each impacted on parents’ ability to cope and form positive relationships with their children.
- It was not unusual for support services to work with adults whose parents they had supported previously, illustrating the significance of transgenerational trauma and multi-generational poverty.

## ***Education and employment***

- Family and community were identified as key factors in shaping children's educational experiences and aspirations.
- Identified inhibitions on attainment included: lack of appropriate resources; the low value placed on education in some families and communities; poor quality vocational education/training; limited job opportunities within local areas.
- Approximately half of the children and young people interviewed disliked school or considered it irrelevant. Their 'rejection' of school focused on school culture, teaching methods and the perceived lack of significance of subjects studied.
- Many felt that school did not adequately prepare them for adult life. They were particularly critical of careers advice, sex and relationships education, lack of opportunities to explore emotions and feelings in a safe and trusting environment.
- Children were considerably more positive about their relationships with teachers than young people.
- Young people often felt powerless in school, believing that they were silenced, judged and misunderstood by teachers.
- Many young people had experience of School Councils, but recorded a range of limitations, including: minimal influence and impact; tokenism; poor feedback about decisions; some issues being defined as 'off-limits'; teachers having the 'final say'; selective representation of pupils.
- Despite the presence of school counsellors or pastoral care teams, many young people were reticent to share information with these staff because they believed their confidentiality would be compromised.
- On completion of compulsory education, many young people attended schemes and courses with limited employment prospects. Employment opportunities were more restricted in rural communities.
- Employment aspirations and outcomes were generally low and related to whatever jobs were available in local communities. Formal education was not considered necessary for most locally available work opportunities.

## ***Community and policing***

- Many community representatives and young people expressed frustration that the Peace Agreements had not brought significant change. They believed that the impact and legacy of the Conflict had been ignored, and that communities have been left without necessary economic and social support.
- It was recognised by young people and community representatives that many young people were confused about their cultural identities and did not understand the implications of transition from conflict.
- For working class young men with an unambiguous, strong cultural and community identity, there was a collective sense of loss – formal education was not valued, local work opportunities were declining with few alternatives, and their cultural identities were felt to be under-valued.

- Some young men responded to these dramatic changes in employment and social opportunities, and their lack of status, through violence. They asserted their sectarian identity to defend a culture they believed was under threat.
- Children and young people believed they were purposefully excluded and marginalised in their communities. They were not invited to community forums or meetings and were not consulted in decision-making processes.
- Young people expressed frustration about feeling ‘unwanted’ in ‘their’ communities.
- Community representatives believed there was a ‘policing vacuum’, particularly regarding the challenging behaviour of some young people.
- Community representatives and young people expressed disillusionment with the police, who were considered unwilling, unable or ill-equipped to deal with community concerns.
- Police tactics had done little to generate trust or respect. Young people reported being ‘moved on’, ‘goaded’, ‘threatened’ and ‘harassed’ - sustaining a climate of mistrust and confrontation.
- Young people across all six communities were united in the view that they were policed differentially and unfairly because of their age.

### ***Place and Identity***

- The problems identified in all six communities centred on lack of adequate play and leisure facilities, street fighting/ violence, alcohol use and the general condition of the local area.
- Those in rural areas experienced exclusion from play and leisure services due to remote location and inadequate, affordable transport.
- For children, positive aspects of their communities included play facilities, friendships and feeling safe.
- For young people, positive aspects of their communities included familiarity with the place and proximity to family and friends.
- Older young people expressed concern that they would be forced to leave their communities to find employment, ending the availability of extended family support for those making the transition to independent living.
- Over time, housing policies and population movement had given neighbourhoods or clusters of streets distinct identities and reputations. Children and young people positioned themselves according to such known divisions within communities, often drawing distinctions between ‘rough’ and ‘respectable’ neighbourhoods or streets.
- Those living in the same locality had distinctive and contrasting experiences as a consequence of internal divisions within communities.
- The location and management of services, even in communities with a shared cultural identity, affected take-up - leading to experiences of exclusion or marginalisation amongst those who felt that ‘their’ local area had not been appropriately resourced.

### ***Segregation and sectarianism***

- Children and young people from all six communities considered sectarianism to be a significant issue affecting their lives.
- Children and young people were 'badged' by the places they occupied; often feeling 'imprisoned' within their communities.
- Fear of being identified as 'the other' limited opportunities (freedom of movement, opportunities for play and leisure, social relations) and impacted on children's/ young people's feelings of safety.
- Perceptions about 'the other community' were formed long before children and young people met someone of 'the other religion'.
- Limited exposure to those outside their community, and strong sectarian beliefs within communities, consolidated negative attitudes about 'the other community'.
- Rioting and sectarian clashes symbolised a means of asserting cultural identity and were described as responses to perceived inequalities.
- 'Concessions' to one community were viewed as 'punishments' to the other. This created a sense of unfairness, insecurity and increased resentment towards 'the other community'.
- Children and young people were critical of cross-community projects based on minimal social interaction and no long-term plans for maintaining contact. Projects with a starting point of commonality, rather than difference, were better received and involvement in such projects was felt to have been beneficial.
- Children and young people across the religious divide shared negative views towards foreign nationals.
- Territorialism, uncertainty and insecurity at a time of transition for established populations exacerbated the difficulties faced by foreign nationals residing in small close-knit communities.

### ***Violence in the context of conflict and marginalisation***

- Many children and young people were exposed to community violence, sectarian violence, rioting against the police, paramilitary-style threats and punishments.
- The perceived anti-social behaviour of young people made them targets for those who continued to ascribe themselves paramilitary status.
- While children and young people felt threatened and intimidated by violence in their communities, they were resigned to its presence.
- As a by-product of being on the streets at night and weekends when (reportedly) there was more 'fighting', young people regularly experienced or witnessed violence.
- Violence impacted on children's and young people's feelings of safety, their freedom of movement, opportunities for play and levels of victimisation.
- A connection was made by children, young people and community representatives between boredom, alcohol use and violence. Alcohol use

was a concern in rural areas and in communities where few facilities for young people existed.

- Alcohol was often used by young people as an escape from boredom and the difficulties of life. Yet its use often increased the likelihood of experiencing violence and emotional distress.
- Some young people exerted power over children, threatening and intimidating them. This was consistent with young people's experiences of adult power.
- Violence was deemed by some young people to be a legitimate response in defending cultural identity.

### ***Services and support***

- Children and young people felt that poor play/youth provision was an indication of their low status in communities.
- Of those adults with whom they had regular contact, children and young people felt most respected by youth workers.
- Community/ youth projects acted as a local support service for children and young people. Individual workers often filled the void for those who lacked positive adult relationships.
- Children and young people considered they could be better supported through expanded community/ youth provision, as well as improved quality of information and advice in schools.
- Young people noted the difficulties involved in recognising the signs of depression and poor mental health amongst their peers. Some stated that they were silenced by embarrassment or the stigma associated with poor mental health.
- A significant minority of children and young people had experienced the death of a relative, friend or acquaintance through suicide.
- Young people perceived a connection between boredom, low self-esteem, feeling down and use of alcohol or drugs as a means of filling time, increasing confidence or as a form of escape.
- Some community representatives related the high incidence of young people taking their own lives, self-harm and depression to emergence from conflict and young men lacking identity or status.
- Community and voluntary groups considered that they were expected to meet the deficit in local services.
- Programmes and projects for children/ young people were increasingly funding-led, rather than needs-led. Adult concerns, rather than those of children and young people, dictated funding agendas.
- Opportunities for qualified youth workers to utilise their skills were limited by time spent applying for funding and satisfying administrative demands made by funders.
- Insecure funding forced organisations within communities to compete for scarce resources. This inhibited information sharing and partnership working.
- Short-term, insecure funding had many negative implications for organisations aiming to develop services in communities: limited

opportunities to develop trust and build positive relationships; loss of foundational work; lack of sustainable, developmental work; sudden rather than gradual withdrawal of services; loss of confidence and difficulties in recruiting for future provision; difficulties recruiting and retaining workers and volunteers.

- Long-term, holistic, preventive programmes based on individual strengths were considered more valuable than ‘crisis’ or reactive interventions.
- Intergenerational relationships appeared to have worsened. Community representatives prioritised the need to develop mutual respect and understanding between children/young people and adult community members.

### **The rights deficit**

- Few children and young people were familiar with the *UN Convention on the Rights of the Child*. Even fewer were aware of the existence of the Northern Ireland Commissioner for Children and Young People.
- Very few children and young people had learned about children’s rights in school.
- Most children and young people considered they should have the right to form an opinion, express their views and have these taken seriously.
- Children and young people were generally not encouraged to express their opinions, describe or explain their emotions and behaviour. Nor were they involved in decision-making processes – either as individuals or as a social group within their communities.
- Children and young people recognised that effort, time and communication skills were required by adults - to listen, interpret and understand children’s views, experiences and actions.
- Some young people acknowledged the significance of the right to vote and their exclusion from public decision-making until they reached 18. A few suggested that the voting age should be lowered to 16, consistent with other social responsibilities.
- Children and young people emphasised their right to age-appropriate information and its importance in informing decisions about their lives, opportunities and destinies. They felt they were denied access to appropriate information concerning sexual health, relationships and sexualities; mental health and well-being; education, training and employment opportunities; substance use.
- The right to practice their own religion and culture was important to many children and young people, especially *outside* their community.
- Many felt they should have the right to freedom of association and peaceful assembly. They did not consider it appropriate that their presence on streets and in other public spaces in their communities was regulated and controlled.
- Children considered that basic needs should be met, with a full range of public services available within all communities.

- Children and young people considered access to primary, secondary and tertiary education to be a universal right. They felt that the curriculum should be relevant to employment, and matched to interest as well as ability. They noted the negative impact of intransigent rules and tokenistic School Councils, raising the need for effective participation in school decision-making processes.
- The right to play, leisure and relaxation was considered important by children and young people of all ages. However, they noted that *safe* play areas were not always available for children. Leisure facilities were lacking, particularly for those aged 13 and above, for girls and young women, and for those living in rural areas.
- Children and young people felt discriminated against by appearance and age. They considered that they should be able to dress and adopt styles without being judged and stereotyped. They resented being treated differently, or excluded, because they were young.
- Children raised the rights to 'be safe' and to 'be loved and cared for'. For young people, discussions about safety concerned protection from violence - particularly on the streets, where they were susceptible to intimidation and violence perpetrated by other young people or adults.
- Community representatives generally mentioned children's rights negatively, suggesting that they inhibited interaction between children and adults because children 'used' rights as a 'threat' or because child protection placed restrictions on adults' responses to children.

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**Haydon, D. (2009) *Developing a Manifesto for Youth Justice in Northern Ireland: Background Paper, March 2009, Belfast: Include Youth***

**The Research**

In 2008 Include Youth published a *Manifesto for Youth Justice in Northern Ireland* 'intended to inform and prepare the people of Northern Ireland and its elected representatives for the administration of youth justice during, and beyond, the challenges of transition'. Focusing on 'early intervention' and the 'formal youth justice system', the Manifesto: identifies core values and principles that should underpin youth justice policy and practice; promotes the safety of all people in communities; proposes involvement of non-governmental organisations and the active participation of children and young people in planning and developing services to identify needs, protect and promote rights; establishes priorities for action based on early intervention, prevention and the provision of services necessary to support children and young people in need and/or at risk; promotes effective alternatives to custody in response to offending behaviour emphasising international standards regarding deprivation of children's liberty as a last resort.

The *Manifesto* was developed through analysis of policy documents, research reports and international human rights standards concerning youth justice. A range of people were directly and indirectly consulted, including: young people in conflict with the law and who have experienced the youth justice system; practitioners working with young people; civil servants and policy makers from government departments, NGOs, human rights institutions and youth justice services.

In developing the *Manifesto*, two key issues were central: to reflect the views and experiences of children and young people who have been in conflict with the law and/or had experience of the youth justice system in Northern Ireland; to ensure the protection and promotion of the rights of children and young people.

The *Background Paper* provides the evidence underpinning the Preamble to the *Manifesto* and its recommendations. Throughout the document, quotes from young people involved in Include Youth's Young Voices Project illustrate their experiences and views. Each section draws on analysis of international standards and their implications for developing rights-based policy and practice. Following an overview of relevant standards, each section summarises the issues affecting children and young people in Northern Ireland and the current barriers to rights implementation.

## **Key Issues**

Developing a rights-based policy and practice concerning children and young people in conflict with the law means:

- Ensuring young people's active participation in decision-making about matters affecting them as individuals, and in the design, development, delivery and review of services or programmes for children and young people.
- Providing information and training about children's rights, the CRC and other international human rights standards, children's views and experiences, barriers to realisation of children's rights - for all adults working with children and young people, for personnel developing policy or practice affecting children's lives, and for children and young people themselves.
- Developing advocacy, monitoring and complaint mechanisms and ensuring that children are aware of available remedies should they consider their rights have been breached.
- Defining 'children in conflict with the law' as 'children' first - often 'children in need' - rather than 'children in trouble', 'at risk of offending' or 'young offenders'.

- Emphasising children’s well-being and personal development, rather than ‘prevention of offending’ and ‘community safety’.
- Raising the age of criminal responsibility – in line with other social responsibilities.
- Locating responsibility for those ‘at risk of offending’ in children’s services (education, youth work, health, social care) based on the outcomes identified in the 10-year *Strategy for Children and Young People in Northern Ireland*, rather than the Youth Justice Agency within the criminal justice system.
- Focusing on provision to ensure that young people and their families access available services (eg mental health, family support, adolescent health, education, play and leisure, accommodation, advocacy) that identify and address needs as young people and their families define them.
- Emphasising decriminalisation and diversion, with development of welfare-based, multi-agency interventions which are sensitive to the contexts of young people’s everyday lives.
- Providing community-based youth justice disposals (including community-based restorative justice schemes) as alternatives to prosecution – ensuring that these are proportionate, that any requirements or conditions that the young person has to meet are practical and not likely to be breached, and that the young person has given willing, informed consent to their involvement.
- Ensuring that custody is used as a ‘last resort’, for the shortest possible period, and is confined to those presenting serious, immediate risk to others, with increased use of alternatives to custody such as: bail support, remand fostering and supported accommodation.
- Ensuring that the rights of those in secure facilities are protected, including: separation from over-18s; age-appropriate regimes and programmes; access to health, education and care based on assessment of individual need; access to leisure and contact; appropriate disciplinary procedures; accessible information and advocacy services; access to pre- and post-release support (education, training, employment, accommodation, rehabilitation).

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**Haydon, D. and McAlister, S. (2009) *An Independent Analysis of Responses to the Department of Education's 'Priorities for Youth' Consultation, May 2009, Bangor: DENI.***

## **The Research**

The following findings relate specifically to 'marginalised groups'. Where possible I have included points relating specifically to those with experiences of the juvenile justice system, those with experiences of care and those who might be deemed at 'risk' (e.g. 'educationally disadvantaged or 'NEET')

## **Findings**

- For children and young people with limited or restricted social lives (and restricted opportunities), youth provision can play a vital social as well as educative role.
- Youth and community provision provided an alternative to spending free time on the streets enabling participation in more structured activities. Young people were well aware that being on the streets could lead to problems, especially for those defined 'at risk'.
- For young people who often feel demonised in their communities and excluded from community life, local projects provide a sense of belonging.
- For marginalised young people, lack of confidence, fear of being judged or bullied were the main barriers identified to involvement in youth provision. Those with experiences of care and the youth justice system most often noted fear of being judged negatively or bullied as a barrier to involvement often reflecting previous personal experience.
- There is also a need for space and unstructured free play as well as organised activities. Youth provision being too 'adult led' and educationally focused runs the risk of alienating and further marginalising young people.
- For young people with experience of the youth justice system, the five most frequently identified issues affecting them were: bullying; crime and vandalism; alcohol/ drug abuse; custody related issues; something to do and somewhere safe to go.
- Aftercare for those leaving care or custody was identified as an important issue.
- Other specific issues impacting on young people as a result of loss of their liberty included: 'Dealing with custody'; 'Stigma attached to

being locked up'; 'Not being able to do what you want'; 'Not being with your family'.

- The issues impacting upon the lives of children and young people are often dictated by age, locality and personal circumstances. This should be borne in mind in considering strategies to address them.
- Few children and young people with experiences of care or with experiences of the youth justice system reported friends as a source of help.
- Young people with experience of the youth justice system reported that some information was accessible to them, particularly through social workers. Information provided through solicitors was rarely understood. They felt that they often did not know where or how to access information.
- While marginalised groups often identified youth workers as people they could confide in for help, this was not the case for those who experienced the youth justice system.
- The youth service should improve its engagement with children and young people who have experience of the youth justice system to encourage and facilitate their involvement.
- Those with experience of the youth justice system requested more support for their parents (ie. literacy, money, alcoholism, ability to cope with and manage the behaviour of their children and to help with their education).
- The majority of participants considered that adults negatively labelled children and young people. Those with experience of the youth justice system stated that they felt they were perceived as 'pathetic', 'useless' and 'hopeless'.
- The negative image and perception of children and young people led to them being constantly 'moved on' from their local streets and shunned by their own community.
- Responses from those with experiences of care, and those with experiences of the youth justice system indicate their experience of 'double stereotyping' or discrimination because of their time in care or custody.

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**Haydon, D. (2008) *Northern Ireland NGO Alternative Report. Submission to the United Nations Committee on the Rights of the Child for consideration during the Committee's scrutiny of the UK Government Report, March 2008, Belfast: Save the Children and Children's Law Centre, pp45-49***

### **Recommendations**

The UK Government should:

- fully integrate relevant international standards into youth justice legislation, policies and practice
- substantially raise the age of criminal responsibility
- ensure that custody is used as a measure of last resort
- reform legislation to ensure that no child under 18 is tried as an adult, irrespective of the circumstances or the gravity of their offence

The Northern Ireland Assembly and Executive should:

- legislate to ensure that the best interest principle underpins all legislation, policy and practice pertaining to the administration of criminal justice relating to children and young people
- ensure that there are effective children's rights compliant alternatives to the criminalisation of children (including family support and community based diversion), which are in the child's best interests. All programmes should be effectively regulated and monitored to protect the child
- ensure that all appropriate measures are taken to facilitate the participation and understanding of all children involved in criminal proceedings
- ensure that all children have the right to be tried for a criminal offence in an appropriate setting and manner, having regard to the child's age, maturity, needs, vulnerability and understanding
- legislate to ensure that Anti-Social Behaviour Orders are not used against children and young people
- ensure that sentencing guidance, policy and practice incorporates the principle that custody should be used as a measure of last resort, for the shortest appropriate period of time

- determine the reasons for the over-representation of specific groups in the youth justice system/ custody and take immediate, targeted actions to address these inequalities
- ensure that when denial of liberty is essential and unavoidable, young people in detention are separated from adults
- ensure that the rights of detained children and young people are fully respected and protected, including their rights to: independent advocacy services; health, including mental health services; be educated within the formal schools curricula or educational/ vocational training; child protection; accessible complaints procedures
- ensure that the Police Ombudsman's office provides a breakdown of complaints from under-18s, to assess the type and extent of complaints and any emerging patterns

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**Haydon, D. (2007) *United Nations Convention on the Rights of the Child. Consultation with Children and Young People Report*, Belfast: OFMDFM, [www.allchildrenni.gov.uk](http://www.allchildrenni.gov.uk)**

### **The Research**

132 children and young people were consulted to inform the *Northern Ireland Report to the UN Committee on the Rights of the Child* (OFMDFM, 2007). This included 63 females and 69 males, aged 4 to 25, from Belfast, Armagh and Derry. The children and young people were contacted through organisations working with specific groups, including: children; children with special educational needs; Travellers; care leavers; children/ young people with disabilities; young people in conflict with the law; lesbian, gay, bi-sexual or transsexual (LGBT) young people; children/ young people from minority ethnic communities; young parents; young people in alternative education projects. Some groups included children/ young people whose identities or experiences combined a number of these categories.

### **Key Issues**

#### ***Negative assumptions and disrespect***

Young people did not consider that they were being treated with respect and they suffered from negative assumptions about their behaviour held by adults and those in authority.

#### ***Not being involved in decisions***

This occurred in every aspect of children and young people's lives including: court decisions (about care or parental custody); when legislation is being developed; when decisions are made by social workers. For young people in conflict with the law, not being listened to or involved in decision-making

was a profound concern affecting every area of their lives: with social workers, in education, policing in their communities, in court.

### ***Absence of rights***

Some young people felt that they did not have rights, noting the absence of formal mechanisms through which children/ young people could have their views taken into consideration.

### ***Discrimination***

They considered criminal record, or being in trouble with the law, led to discrimination – being treated unfairly because of a negative reputation, not being interviewed or appointed for jobs because of a criminal record.

### ***Right of peaceful assembly***

Young people considered that they were not tolerated on the streets. Restrictions were placed on young people who had been in trouble with the law (eg curfews; restrictions on visiting friends; bail conditions prohibiting contact; ASBOs restricting contact with specified individuals).

### ***Negative stereotyping of young people***

Young people noted the impact, personal and collectively, of negative media stereotypes about children and young people.

### ***Right to privacy***

Young people who had been in custody (in the Juvenile Justice Centre or Young Offenders Centre) questioned intrusive monitoring observation including lack of privacy during visits.

### ***Alternative care***

Finding appropriate, safe accommodation where they would like to live was a particular problem for care leavers.

### ***Protection from harm***

Young people understood the difficulties in disclosing experiences of harm or abuse. Yet they were concerned that young people would not be believed, would have their confidence breached or would fear retribution from their abuser.

### ***Family support***

Young people considered that parents who used drugs/ alcohol or who experienced domestic violence needed additional support.

### ***Exclusion from school***

Young people excluded from school considered they had lost their right to education. Those in conflict with the law had been absent from school for some time. They considered that schools failed to address their literacy problems or to provide appropriate support.

### ***Training and vocational education***

Many young people had no information on training and vocational education or employment opportunities, especially after leaving school. Provision for 16-18 year olds was a common issue. Care Leavers considered the school leaving age should be raised to 18. While poverty affected access to further and higher education, low self-esteem and lack of confidence were vital.

### ***Play and leisure***

While provision for safe play in communities was a priority, it was seriously deficient and young people's access to the streets was inhibited by paramilitaries. They wanted more youth clubs for children and young people of all ages, with activities for girls and late evening opening, at weekends and during holidays.

Leisure centres were inaccessible and expensive. They recommended a range of affordable community-based activities, including: more clubs; football pitches; organised trips to the cinema, bowling, outdoor activities; drop-ins; skate parks.

### ***Health care***

Young people did not know how to access available health care, particularly mental health support. They emphasised the need for counselling and support for children/ young people. School-based counselling lacked confidentiality.

### ***Right to an adequate standard of living***

Half of those interviewed reported inadequate financial support, especially those including young care leavers who were dependant on benefits. They noted the adverse impact of poverty on mental health.

### ***Administration of juvenile justice***

Young people reported that the UNCRC general principles (non-discrimination, best interests, respect for views and involvement in decision-making) were not implemented by those responsible for administering youth justice.

Those regularly on the streets with friends had a negative experience of the police. They stated they were goaded by police officers and when provoked the police responded punitively including assault by officers. They also resented informal policing by paramilitaries.

Representation for children/ young people in court was considered inadequate.

### ***Deprivation of liberty***

Conditions in police custody were poor. In prison children reported being held with young offenders and young women reported being held with adults.

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**Scruton, P and Moore, L (2007) *The Prison Within: The imprisonment of women at Hydebank Wood 2004-2006* Belfast: Northern Ireland Human Rights Commission, pp 130-133**

### **The Research**

In June 2004 amidst considerable controversy, and opposition from the Human Rights Commission, the Northern Ireland Prison Service transferred women and girl prisoners to Ash House, a unit within Hydebank Wood male Young Offenders' Centre. A follow-up study was commissioned and research fieldwork with prisoners, prison staff and management, professionals and volunteers took place from December 2005 through to February 2006. Chapter 9 is *Children and Young People in Prison*. What follows are the relevant recommendations.

### **Recommendations** (edited from 55 recommendations)

- Legislation should be amended to ensure that children under 18 years of age are never held in prison service custody.
- Legislation should be introduced to increase the age of criminal responsibility in line with other European states.
- The Youth Justice Agency should carry out a review of the needs of girls under 18 years of age who are remanded or sentenced to custody.
- A last-resort, separate young prisoners' unit for young women should be established, providing age-specific regimes and programmes.
- Gender-specific programmes should be developed in consultation with relevant state agencies, NGOs and women prisoners. Gender-specific needs include separation from children, menstruation, pregnancy, post-natal provision, menopause, and the consequences of sexual, physical or mental abuse.
- Prison Service strategy and policies should demonstrate compliance with all relevant and applicable human rights standards, including those for women and children, establishing implementation baselines for the operational practices of their regimes.
- All managers, staff and professionals should receive training in those standards including the UN Convention on the Elimination of Discrimination Against Women (CEDAW) and the UN Convention on the Rights of the Child (CRC).

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**Scruton, P and Moore, L (2005) *The Hurt Inside: The imprisonment of Women and Girls in Northern Ireland Belfast: Northern Ireland Human Rights Commission*, pp. 180-184**

**The Research**

In 2003 the Human Rights Commission decided to conduct research into the human rights of women in prison in Northern Ireland. The Commission has a power to conduct research under the 1998 Northern Ireland Act and to carry out investigations. The remit of the research was 'the extent to which the treatment of women and girls in custody in Maghaberry Prison is compliant with international human rights law and standards, and in particular with Articles 2 and 3 of the European Convention on Human Rights'. In-depth qualitative research was conducted in 2004 and 2005 in the Mourne House Women's Unit of Maghaberry prison. Chapter 7 is *The Mourne House Young Offenders' Centre*. What follows are the recommendations relevant specifically to children and young offenders taken from the Final Report.

**Recommendations** (edited from 41 recommendations)

***Generic and Longer Term***

- Government policy should prioritise alternatives to custody and funding should be made available for viable alternatives including those run by state and non-governmental organisations.
- As a matter of urgency relevant Government departments and agencies must develop a coherent and multi-agency strategy on women and girl 'offenders' diagnosed mentally ill and 'behaviour' or 'personality' disordered'. The primary objective of this strategy being to ensure that most will not be sentenced to prison but will have their needs identified and met in therapeutic facilities that offer age-appropriate and gender-specific programmes. An age-related, gender-specific and multi-agency strategy should be developed to identify and meet the mental healthcare needs of the few women whose offences require a prison sentence.
- Children under 18 should not be held in prison service custody. The age of criminal responsibility should be raised in line with other European states. Legislation should be amended accordingly.
- A separate young prisoners' centre for young women should be established, providing age-specific regimes and programmes. Its use should be a matter of last resort and relate only to grave offences.
- Each prison and place of detention, and the government department to which it is responsible, should be required to detail its strategy and policies demonstrating compliance with all relevant and applicable

human rights standards and establishing implementation baselines for the operational practices of their regimes.

### ***Immediate***

- Detailed information packs should be provided to all women prisoners on reception outlining, in accessible and informal language, the expectations and practices of the regimes, the rights of prisoners and the procedures for seeking help and support during the first days of imprisonment. Care should be taken regarding literacy and language.
- A structured induction and risk assessment programme should be developed and implemented. A discrete and extended programme should be provided for long term prisoners. The induction programme should be developed in consultation with women prisoners.
- An individual mental and physical health risk assessment should be conducted on all women and girls currently in custody and the outcomes discussed at multi-disciplinary case conferences. Women and girl prisoners should participate in this process and be fully aware of the outcomes.
- Age appropriate reception and information packs and induction programmes should be provided for young prisoners.
- Whatever the circumstances, children should not be held in segregation or 'punishment' cells.

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**Kilkelly, U., Kilpatrick, R., Lundy, L., Moore, L., Scraton, P., Davey, D., Dwyer, C. and McAlister, S. (2004) *Children's Rights in Northern Ireland*. Belfast: Northern Ireland Commissioner for Children and Young People (pp.xxiv-xxviii)**

### **The Research**

Commissioned by the Northern Ireland Commissioner for Children and Young People this in-depth quantitative and qualitative research into all aspects of children's rights enabled the Commissioner to establish priorities for action and intervention. The Report focused on the following key issues reflecting the State's obligations in meeting international standards: General Measures of Implementation; Family Life and Alternative Care; Health, Welfare and Material Deprivation; Education; Leisure, Play, Recreation, Culture and the Arts; Policing and Youth Justice. There were extensive

findings within each issue but for the purposes of the Youth Justice Review what follows is confined to the scope of its work.

### **General Measures of Implementation**

- Given that children's rights and particularly the Convention's guiding principles are inadequately protected in NI law, it is recommended that a key priority for the Commissioner's Office should be to lobby intensively for incorporation of the CRC into domestic law, as well as for the inclusion of a strongly worded and detailed clause protecting the rights of children and young people in the Bill of Rights for Northern Ireland. NICCY should also promote the return of the children's strategy to its original objective of the mechanism through which the CRC is to be implemented in Northern Ireland.
- In addition to using all its powers to monitor the compatibility of law and policy with the Convention, NICCY should also promote the development of children's rights indicators or impact analysis for law, policy and budgetary decisions. It should lobby for a high level, cross-departmental statutory/Assembly committee and/or Minister for Children with the power and resources to effectively co-ordinate implementation of the Convention and children's rights more generally.
- Raising awareness of the Convention and children's rights among children and young people, and adults, including those working with and for children, all of whom require on-going training on children's rights, should be a priority of the Commissioner's office.
- NICCY should work to establish itself as the central point for information on children's rights in Northern Ireland and should work strategically to ensure that all children and young people have effective access to information about their rights in child sensitive forms.
- The Commissioner needs to address the serious lack of child-sensitive complaints procedures and independent advocacy services for children and young people, possibly consulting with NGOs on what precisely can be done to fill these gaps and how existing mechanisms can be appropriately adapted.
- The practice of producing and maintaining up-to-date and disaggregated data across government departments needs to be mainstreamed. Priority should be given to producing an annual, comprehensive publication on the state of children's rights in Northern Ireland.
- NICCY should take a leading role in promoting the right of all children to be heard and have their views taken into account in individual decisions as well as law, policy and in the political system generally.

## **Family Life and Alternative Care**

- An overarching family policy with a focus on positive parenting and preventative strategies, particularly in the early years, needs to be developed and implemented in collaboration with the voluntary and community sector.
- A programme of multi-disciplinary training at all levels, combined with a co-ordinated approach to interagency working at practice level should be put in place.
- The issue of recruitment and retention of social work staff in all areas of family and child care and the lack of specialist staff, particularly in the area of therapeutic work and child and adolescent mental health needs to be addressed.
- There needs to be a continuing, high profile drive for the removal of physical punishment in the family.
- Continued efforts need to be made to address issues specifically associated with the progress of Children Order cases through the court system. These include, addressing the problem with continued delays, the lack of separate representation in private law proceedings for children and young people and greater use of family mediation and/or alternative dispute resolution projects.
- In secure accommodation urgent steps should be taken to bring the operation of the Independent Review mechanism into line with international standards specifically Article 5 ECHR.

## **Health, Welfare and Material Deprivation**

- Statutory agencies must be encouraged to respond to the evidence based link between poverty and poor health in children, young people and their families.
- Child and adolescent centred health care services in which children and young people have the opportunity to fully participate in decisions about their health care must be developed.
- Urgent provision of fully resourced and appropriately staffed mental health services for children in care, secure accommodation and custody throughout Northern Ireland must be put in place.
- Community safety strategies and initiatives to accommodate and recognise the physical and mental health needs of children and young people should be developed.

## **Leisure, Play, Recreation, Culture and the Arts**

- There is a need to create safe space for children and young people in the areas where they live and in play, youth and leisure facilities.
- There is a need for a more concerted effort to tackle the problems of community segregation in play, youth, sport, recreational and arts activity and to harness the potential of each of the various sectors in promoting tolerance.

## **Policing and Youth Justice**

- The use of plastic baton rounds as a means of riot control should be abolished.
- A co-ordinated strategy for the reduction of child deaths through violence should be introduced, recording all crimes committed against children and monitoring, investigating and prosecuting cases of violence against children.
- The minimum age of criminal responsibility should be raised and age-appropriate welfare and justice interventions established.
- The detention of children in custodial and care institutions should be used a measure of last resort and children are at all times should be held separately from adults.
- The use of restraint in custodial and care settings should be reviewed and solitary confinement should be abolished.
- Policing strategies should be initiated that gain the confidence of children and young people through effective consultation and challenging differential and discriminatory treatment.
- Given their incompatibility with the principles and provisions of the CRC, anti-social behaviour orders should be withdrawn.
- Appropriate training that meets the needs of children as vulnerable witnesses should be provided for the police, lawyers and judges.
- An appropriately resourced and integrated framework of mental healthcare and therapeutic provision should be established, directed towards the physical and psychological recovery of children who are survivors of violence, abuse, trauma and self-harm.
- Self-harm and suicides of children and young people should be researched and an informed, multi-agency strategy developed identifying and responding to children 'at risk'.

- Restorative justice initiatives should be monitored to ensure that in policy and practice they offer an effective alternative to punitive measures.
- Workable protocols through which state agencies and community-based restorative justice programmes can work co-operatively should be advanced.
- There should be an end to all community punishments and exiling of children and young people administered by paramilitaries and vigilante groups.
- Building on existing initiatives, fully-resourced programmes for the children and families of prisoners and ex-prisoners should be consolidated and expanded.
- Community-based initiatives for combating drugs and alcohol abuse should be implemented alongside effective policing strategies targeting the supply of drugs into Northern Ireland.

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