



Submission to the United Nations Special Rapporteur on extreme poverty and human rights

Professor Philip Alston – official country visit to the UK: 5-16 November 2018

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About Together (Scottish Alliance for Children's Rights)

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

Introduction

Together (Scottish Alliance for Children's Rights) welcomes the opportunity to make a submission to inform the UN Special Rapporteur on extreme poverty and human rights ahead of his official visit to the United Kingdom. A number of our member organisations will be submitting responses to the Special Rapporteur to provide detailed evidence on the extent, the underlying causes and the impact that poverty has on children and their families across Scotland. To complement our members, this submission will concentrate on highlighting the views and experiences of children affected by poverty and the impact it has on the realisation of their human rights. In developing our submission, we have particularly drawn from the following reports from our members: The Weight on Our Shoulders¹ (Children's Parliament), I Witness² (Article 12 in Scotland) and It's Not a Choice³ (Scottish Youth Parliament).

Many children across Scotland are human rights defenders and have identified tackling poverty as a priority. In advance of the UN Committee on the Rights of the Child's examination of the UK in 2016,

1 Children's Parliament (2018) The Weight on Our Shoulders <https://www.childrensparliament.org.uk/wp-content/uploads/Child-Poverty-CP-Report-2018.pdf>

2 Article in 12 Scotland (2018) I Witness: The Concluding Observations http://www.article12.org/wp-content/uploads/2018/05/I-Witness_the-Concluding-Observation_2018_web.pdf

3 Scottish Youth Parliament (2015) It's not a choice https://d3n8a8pro7vhmx.cloudfront.net/scottishyouthparliament/pages/270/attachments/original/1446808650/It's_not_a_choice_Final_Report.pdf?1446808650

children took an active role in informing the Committee’s deliberations and subsequent Concluding Observations, many of which place a sharp focus on the steps needed to prevent and mitigate poverty. The Special Rapporteur’s visit provides an opportunity to reflect on the steps taken at a UK and Scottish level to progress the UN Committee’s recommendations and set out what further steps must be taken as a matter of urgency.

Throughout his visit, it is important that the Special Rapporteur hears directly from children affected by poverty. We would be happy to work with our members to arrange for the Special Rapporteur to meet with children and young people during his time in Scotland. The recommendations made by the Special Rapporteur will provide an important advocacy tool for children as human rights defenders.

Child poverty in Scotland

Overview

Poverty is the biggest human rights issue facing children in Scotland and was raised as a serious concern by the UN Committee on the Rights of the Child in 2016.⁴ Between 2014 and 2017, around 19% of Scotland’s population were living in relative poverty after housing costs. This includes 230,000 children (24% of all children living in Scotland).⁵ There has been no significant reduction in relative child poverty after housing costs in recent years and figures have remained relatively high and stable, with over one in five children living in low income households.⁶ Young children are at a particularly high risk of poverty in Scotland, with almost half of all families experiencing poverty having a child under 5 years-old.⁷

Children express disbelief and frustration that so many families are living in poverty. They recognise that poverty is not experienced the same way for all families and that some children are born into poverty whereas for others it can be a temporary experience due to ill health, unemployment or family breakdown.⁸

“I think you should move poverty up as a priority because it’s becoming more likely to happen.” Member of the Children’s Parliament (MCP) (age 12)

“They’re doing stuff, but there’s still people in poverty. That means what they’re doing is pointless because it mainly helps the rich.” MCP (age 12)

UK Government policy

The UK Government has introduced several reforms to the welfare system that have had a negative impact on children. The Welfare Reform Act 2012 introduced a ‘benefits cap’ to limit the total amount of benefits and tax credits that a working-age household can receive⁹ and a two-child limit for receiving the child element of tax credits and for receiving Universal Credit. These measures disproportionately affect children living in larger families. At a UK level, they are projected to drive a further 200,000 more children into poverty and will affect approximately 510,000 families in 2019-20.¹⁰

4 CRC/C/GBR/CO/5: Para: 70(a)

5 Scottish Government (2017) Poverty and Income Inequality in Scotland 2014-17 <https://www.gov.scot/publications/poverty-income-inequality-scotland-2014-17/pages/8/>

6 Scottish Government (2016). Poverty in Scotland. <http://www.gov.scot/Resource/0050/00502217.pdf>.

7 Save the Children (2014). A Fair Start for Every Child: Why we must act now to tackle child poverty in Scotland. https://www.savethechildren.org.uk/sites/default/files/docs/Policy_briefing_Scotland_A_Fair_Start_For_Every_Child.pdf.

8 Scottish Youth Parliament (2015).

9 See: <https://www.gov.uk/benefit-cap/benefit-cap-amounts>

¹⁰ Child Poverty Action Group (2017). Social Security Changes – April 2017. <http://www.cpag.org.uk/content/social-security-changes-april-2017>

In 2015, the ‘benefit cap’ was found by the UK Supreme Court to be in breach of Article 3 UNCRC.¹¹ However, the Court was unable to provide redress to the claimants because the UNCRC is not incorporated into UK law. In 2016 the UN Committee on the Rights of the Child also raised serious concerns around the impact of welfare reform on children.¹² The Committee recommended that the UK Government conduct a comprehensive assessment to determine the impact of recent welfare reform measures on children and, where necessary, to revise the reforms to respect children’s human rights.¹³ To date, this has not taken place.

Children say that they want laws and systems to be put in place that will make a meaningful difference to people’s lives and reduce the number of children living in poverty.¹⁴ There is a strong case for the incorporation of the UNCRC into domestic law to ensure that children’s rights are considered throughout the policymaking process and are seen as binding in the courts.

Scottish Government policy

While the Scottish Government does not have control over UK policies around welfare reform, it does have control over a significant number of policy areas that can help tackle poverty. The Child Poverty (Scotland) Act 2017 has been welcomed, setting out ambitious poverty reduction targets and leading to the publication of the Scottish Government’s Every Child, Every Chance - The Tackling Child Poverty Delivery Plan 2018-2022.¹⁵ This contains a range of actions to tackle poverty, including the introduction of a new income supplement for low income families.

Furthermore, the Scottish Government’s approach to developing the new social security powers that have been devolved to Scotland have been broadly welcomed, in particular the recognition in law that social security is a human right. However, there has been disappointment that the Scottish Government did not take the opportunity to place a duty on Ministers to comply with the right to social security through the full incorporation of the right to social security as defined in international human rights law.¹⁶ This was proposed by the Scottish Human Rights Commission and broadly supported by civil society as a means of ensuring the right to social security would be realised in practice.¹⁷ Again, this strongly highlights the need to push governments to fully incorporate international human rights into domestic law to ensure that they are recognised as being binding rather than guiding.

Impact

The lack of rights-based legislation and child-centred policymaking means that children are disproportionately affected by poverty and are much more likely to have a standard of living below that which most people deem an acceptable level. Two-thirds of children in poverty in Scotland (66%) are living in families where someone was working. The rate of ‘in-work poverty’ has been steadily increasing for several years.¹⁸

11 7 UKSC (2015). R (SG & Ors) v Secretary of State for Work and Pensions [2015] UKSC 16. <http://ukscblog.com/new-judgment-r-sg-ors-v-secretary-of-state-for-work-and-pensions-2015-uksc-16/>

12 CRC/C/GBR/CO/5: Para: 70(c)

13 CRC/C/GBR/CO/5: Para: 71(c) (d)

14 Children’s Parliament (2018) The Weight on Our Shoulders <https://www.childrensparliament.org.uk/wp-content/uploads/Child-Poverty-CP-Report-2018.pdf>

15 Scottish Government, March 2018, Every Child, Every Chance – The Tackling Child Poverty Delivery Plan 2018-2022, <https://www.gov.scot/Resource/0053/00533606.pdf>

16 The right to social security can be found in a range of international human rights instruments, most notably in Article 9 ICESCR.

17 <http://www.scottishhumanrights.com/news/commission-calls-for-due-regard-duty-to-advance-right-to-social-security/>

18 Scottish Government (2017) Poverty and Income Inequality in Scotland 2014-17

supplementary tables – characteristics of poverty <https://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/IncomePoverty/povertytable>.

“My mum had a job, working all the time, but now she doesn’t get as many shifts so we’re struggling at the moment.” MCP (age 9)

“In work poverty is a major factor for families. The minimum wage is not enough for families to have a comfortable life...It affects the economy from the bottom up... money is spent on Trident when families are in desperate poverty and relying on food banks.”¹⁹

Families with a disabled adult are disproportionately affected by poverty, with one in three children with a disabled parent living below the poverty line compared to 24% of children who live in a family where no one has a disability.²⁰ Children with disabilities are also more likely to experience poverty and evidence suggests that 31% of families with disabled children are going without essentials such as food.²¹ The reasons for this include additional transport and childcare costs, parents being unable to work because of caring responsibilities, and benefit changes resulting in lower incomes for families.²²

“My father cares for me 3 out of 4 days per week and if it wasn’t for my disability, he wouldn’t have had to give up his 2nd job... Often things happen that people can’t control, which can leave them worse off money wise.”²³

As well as the right to an adequate standard of living, poverty impacts on a far broader range of children’s rights including the right to food, education, housing as well as an adequate standard of living. One in eight children living in poverty experience material deprivation.²⁴ This affects the immediate environment in which the children grow up, impacting on food, heating and energy, and housing. Children have highlighted the importance of having a warm, heated home. They understand that families living in poverty can find it difficult to pay for gas and electricity bills or purchase credit for pre-paid gas and electricity meters. They reflect on how being cold for long periods of time can have a significant impact upon a child’s health and wellbeing which may, in turn, affect their day-to-day experiences at home, school or in the community.

“People who do not have heating means they will get cold and ill. They will not focus in school because they are cold and unwell when they are doing work.” MCP (age 10)

Poverty is the leading cause of inequalities in children’s early development, including in their educational attainment.²⁵ The gap between the poorest 20% of pupils and the wealthiest 20% has widened sharply.²⁶ Scotland falls behind the rest of the UK regarding the poorest children going

19 Scottish Youth Parliament (2015) Pg.26

20 Barnardo’s (2016). What causes child poverty?

http://www.barnardos.org.uk/what_we_do/our_work/child_poverty/child_poverty_what_is_poverty/what_causes_child_poverty.htm.

21 Contact a Family (2014). Counting the Costs.

http://www.cafamily.org.uk/media/805120/counting_the_costs_2014_uk_report.pdf. [Date accessed: 21st Oct 2016].

22 Contact a Family (2014). Counting the Costs.

http://www.cafamily.org.uk/media/805120/counting_the_costs_2014_uk_report.pdf. [Date accessed: 21st Oct 2016].

23 Scottish Youth Parliament (2015) Pg.24.

24 Scottish Government (2016). Poverty in Scotland. <http://www.gov.scot/Publications/2016/06/5456/1>.

25 Joseph Rowntree Foundation (2014). Closing the attainment gap in Scottish education.

https://www.savethechildren.org.uk/sites/default/files/docs/Policy_briefing_Scotland_A_Fair_Start_For_Every_Child.pdf.

26 Scottish Conservatives (2015). New research shows attainment gap in Scotland is now widening.

<https://www.theguardian.com/uk-news/2015/nov/05/scotland-exam-data-gap-richest-poorest-pupils-widening-highers>

straight into higher education.²⁷ Children living in poverty are more likely to start school at a disadvantage compared to children from families on higher incomes.²⁸

“If a child doesn’t have food, they won’t have energy to go to school meaning that they won’t be able to get a job and the chain will continue.” MCP (age 11)

Food poverty is a significant concern. In 2016, the UN Committee on the Rights of the Child made a call to ‘regularly monitor and assess the effectiveness of policies and programmes on child food security and nutrition’²⁹. Despite this, there is no official monitoring of food insecurity in either the UK or Scotland. There has been an increase in the number of families with children accessing food banks³⁰ with the three primary reasons that people cite being benefit delays, benefit changes, and low incomes.³¹ Children’s organisations and schools share widespread concerns around children’s access to food during school holiday periods, when free school meal initiatives do not run.³² Children from families with low incomes are more likely to experience malnourishment and damage to their health during school holidays owing to a range of issues including poverty and unavailable childcare provision.³³

Poverty affects children’s social and emotional wellbeing as well as their relationships with friends and family members. Children who have experienced poverty are more likely to be solitary and play alone, four times more likely to fight with or bully other children, and less likely to talk to someone at home about their worries.³⁴ Children understand the emotional, social, and financial impacts of poverty³⁵ and highlight the impact that poverty can have on their family relationships. They say that parents sometimes need support to care for their children properly and that the hardship of poverty and anxieties about money can have a significant impact upon children and parents’ mental health and relationships within the home.

“If your parents are stressed about money and argue a lot, it’ll impact you and you feel like you can’t do anything about it” MCP (age 10)

Taking account of the views of children and young people

Children recognise that poverty can impact on a broad range of human rights. They strongly believe governments have a responsibility to protect children’s rights and involve them in efforts to tackle poverty.³⁶ In the current political climate, children say that their rights are more important than ever

27 Weedon, E., Kadar-Satat, G., Blackburn, L.H. & Riddell, S. (2016). Access in Scotland: Access to higher education for people from less advantaged backgrounds in Scotland. The University of Edinburgh. http://www.suttontrust.com/wp-content/uploads/2016/05/Access-in-Scotland_May2016.pdf

28 Treanor, M. (2012). Impacts of poverty on children and young people. Scottish Child Care and Protection Network (SCCPN), Stirling. http://www.research.ed.ac.uk/portal/files/17773229/impacts_of_poverty_on_children_and_young_people.pdf

29 Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, Committee on the Rights of the Child, CRC/C/GBR/CO/5, 12 July 2016

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5

30 Nourish Scotland (2016). Report to UN Committee on Economic, Social and Cultural Rights – On Right to Food.

<http://www.nourishscotland.org/wp-content/uploads/2016/05/Nourish-Shadow-Report-Full-Session-CESCR.pdf>

31 The Trussell Trust (2016). Food bank Statistics. <https://www.trusselltrust.org/news-and-blog/latest-stats/#fy-2015-2016>.

32 Children in Scotland (2016). Glasgow primaries open in summer to join fight against holiday hunger.

<http://www.childreninscotland.org.uk/media-centre/press-releases/glasgow-primaries-open-in-summer-to-join-fight-against-holiday-hunger>.

33 What Works Scotland (2015). The Cost of the School Holidays. <http://whatworksscotland.ac.uk/wp-content/uploads/2015/07/The-cost-of-school-holidays.pdf>.

34 Joseph Rowntree Foundation (2016). Growing up in poverty detrimental to children’s friendships and family life.

<https://www.jrf.org.uk/press/growing-poverty-detrimental-childrens-friendships-and-family-life>.

35 Scottish Youth Parliament (2015) Pg. 6

36 Scottish Youth Parliament (2015) Pg. 8.

and that it is essential that marginalised children are adequately supported to ensure their rights are realised.

“Rights are more important now than ever, don’t let the political climate erode them”³⁷

A substantial majority of children believe that governments do not spend enough money tackling poverty and wish that governments would spend money on ending the cycle of poverty, improving opportunities, increasing jobs, and attending to the social impacts of poverty.³⁸ Children tend to be more in favour of increasing public spending to tackle poverty than the wider population.³⁹ They call on governments to listen to them more and take account of their views.⁴⁰

“The views of young people must be heard, we want to participate and have our voices heard on the issues that affect us”⁴¹

Incorporation of the UNCRC into UK and Scots law

It is clear that the development of the UK Government’s welfare reform measures have failed to consider children’s human rights. It is also clear that taking a rights-based approach to policy-making across a broad range of issues - including housing, health, education, planning and family support - can help to alleviate the impact of poverty and help to ensure that the rights of children are protected, respected and fulfilled. As such, a systematic approach is needed to ensure that children’s human rights are considered at the beginning of the policy-making process. The incorporation of the UNCRC into UK and Scots law would embed such an approach - ensuring that children’s human rights are given full consideration throughout the policy making process, that resulting legislation and policy is in compliance with the UNCRC and that children have access to redress if their rights are violated.

In Scotland there is a political commitment to the incorporation of the UNCRC into Scots law. Urgent action is needed to take this forward. In September 2018, the First Minister pledged to enshrine *“children’s rights by incorporating the principles of the UN Convention on the Rights of the Child into law”*.⁴² There is currently a Parliamentary majority in support of UNCRC incorporation and a pressing need to mitigate against the negative impact of Brexit on children’s human rights. As such, the Scottish Government must commit to incorporate the UNCRC into domestic law before the next Scottish Parliamentary elections in 2021. There are real concerns among civil society that if progress is delayed, the opportunity to embed structural long-term protections of children’s human rights into Scots law will be lost.

“Promises made by the government must be delivered”⁴³

Whilst the incorporation of the UNCRC into Scots law would not directly impact on policies and legislation developed at a UK level, it would provide a strong signal to the UK Government that children’s human rights should be at the heart of the policy-making process. There are also hopes across the UK that incorporation in Scotland may encourage wider UNCRC incorporation at a UK level.

37 Article 12 in Scotland (2018) Pg. 63

38 Scottish Youth Parliament (2015) Pg. 28.

39 Scottish Government (2015), Public Attitudes to Poverty, Inequality, and Welfare in Scotland and Britain, <http://www.gov.scot/Publications/2015/03/2695/downloads>, pg. 11

40 Scottish Youth Parliament (2015) Pg. 6.

41 Article 12 in Scotland (2018) Pg. 63

42 Delivering for Today, Investing for Tomorrow The Government’s Programme for Scotland 2018-19, page 5 Available at <https://beta.gov.scot/publications/delivering-today-investing-tomorrow-governments-programme-scotland-2018-19/>

43 Article 12 in Scotland (2018) Pg. 63