



Seminar Series 2017 – Implementing and monitoring the UN Convention on the Rights of the Child (UNCRC) in Scotland

Seminar One – the UNCRC in Law

Friday 10th February 2017

Scottish Universities Insight Institute, Collins Building, G1 1XQ

- 9.30–10.00am Registration with teas and coffees
- 10.00-10.15am Welcome and Context
Fiona Jones (Chair of Together)
Morning session Chaired by Camilla Kidner, Senior Researcher at SPICe
- 10.15-10.45am Giving Effect to the UNCRC: Learning from International Experience
Professor Ursula Kilkelly (University College Cork Ireland)
- 10.45-11.15am Legislating for the UNCRC in Wales
Dr Simon Hoffman (Swansea University)
- 11.15-11.30am Teas and coffees
- 11.30–12.00pm Scottish Context: Children and Young People (Scotland) Act
Juliet Harris (Together)
- 12.00-12.30pm Gaps in Legislation: Scotland
Alison Reid (Clan Childlaw)
- 12.30-1.00pm Q+A discussion with morning speakers
- 1.00-2.00pm Lunch
Afternoon session Chaired by Helen Cameron, Director of Children and Families at Scottish Government
- 2.00-3.00pm Incorporation of the UNCRC into Scots Law – presentations with panel discussion:
 - **Dr Kasey McCall-Smith (University of Edinburgh)**
 - **Professor Kenneth Norrie (University of Strathclyde)**
 - Panel discussion with all speakers
- 3.00-3.30pm Room Discussion with coffee and wall task
- 3.30-3.45pm Key Messages
Professor Elaine Sutherland (University of Stirling)
- 3.45-4.00pm Questions and Close
Dr Andressa Gadda (University of Stirling)



The UNCRC in Law: Biographies in order of appearance

Fiona Jones – Opening remarks

Fiona is the Policy and Advocacy Consultant and co-founder of Clan Childlaw, a unique advocacy and legal service for children and young people. She provides legal advice on all aspects of child law, contributes to policy development and delivers training. Fiona is a non-practising member of the Faculty of Advocates, with many years of experience working to advance the realisation of Children's Rights in Scotland. She is a member of the Family Law Committee of the Scottish Civil Justice Council. She has, until recently, been a Safeguarder in the Children's Hearings System and a Child Welfare Reporter at Edinburgh Sheriff Court. She has also been a learning assistant to a child with autism and an adviser in a Citizen's Advice Bureau. Fiona has been on the Board of Together since 2013.

Camilla Kidner – Morning Chair

Camilla has been a Senior Researcher at the Scottish Parliament Information Centre (SPICe) for the past 16 years. In this role she provides advice and specialist briefings to individual MSPs and Parliament Committees. She also writes and publishes briefings intended for a broader Parliament audience. Her specialist areas include: school education; early years; and children's services. In recent years she has published briefings on the Children and Young People (Scotland) Act 2014, Education (Scotland) Act 2016, Employability, Social Fund, Kinship Care and Named Person. Camilla has a longstanding interest in children's rights developed through working as part of the Bill team for the Act that established the Children's Commissioner in Scotland and also through pursuing an LLM in Human Rights Law at the University of Strathclyde.

Professor Ursula Kilkelly – Morning speaker

Professor Ursula Kilkelly is from the School of Law at University College Cork where she has been Dean since 2012. She has been researching children's rights for nearly 20 years with an emphasis on implementation especially in the legal context. Apart from her books and articles, Ursula has published research funded by the Ombudsman for Children, the EU Commission, the Irish Department of Children and Youth Affairs on the implementation of the CRC regarding justice, healthcare and child participation. Together with Professor Laura Lundy from Queen's University Belfast, Ursula undertook a study of the legal implementation of the UNCRC in 12 countries in 2012 and in 2014 together with her UCC colleague Dr Conor O'Mahony she studied the Constitutions of the Council of Europe from a children's rights perspective. She is a member of the Irish Research Council and Chairs the Board of Management of Oberstown Children Detention Campus, Ireland's youth detention facility. She is on twitter @ukilkelly

Dr Simon Hoffman – Morning speaker

Dr Simon Hoffman joined Swansea University in 2006 having previously worked on policy and advocacy in the non-government sector, and in legal practice. His research is on human rights, focusing on economic



and social rights. He is concerned with impact and implementation, in particular in systems of political devolution and multi-level governance. Dr Hoffman is an experienced Principal Investigator and Co-Investigator on empirical research projects. He has been invited to present his research at seminars and conferences in the UK and internationally. He has provided expert evidence to the National Assembly for Wales, and has worked in collaboration with the Wales Monitoring Group on the UNCRC and the Children's Commissioner for Wales on children's rights issues. Since 2012 Simon has been a co-coordinator of the Wales Observatory on Human Rights of Children and Young People and is currently a member of the Welsh Government Child Rights Advisory Group.

Juliet Harris – Morning speaker

Juliet is the Director of Together (Scottish Alliance for Children's Rights) and leads the organisation in promoting and monitoring the implementation of the UN Convention on the Rights of the Child (UNCRC) across Scotland. This includes working with Together's membership of over 300 children's organisations and professionals to produce an annual State of Children's Rights report, liaising with government and parliamentarians to further children's rights in policy and practice and reporting on progress to the United Nations Committee on the Rights of the Child. Juliet's previous experience includes six years tackling the destitution and poverty of refugees and asylum seekers, alongside a number of roles with charities working in the field of health and homelessness. Juliet has an LLM in International Human Rights Law.

Alison Reid – Morning speaker

Alison was enrolled as a solicitor in 1996, working in civil litigation in private practice before becoming a Reporter to the Children's Hearings. Having recognised the need for a specialist, outreach legal representation service for children and young people in Scotland, Alison co-founded Clan Childlaw in 2008 and continues to be its Chief Executive and Principal Solicitor. She was a safeguarder in the children's hearings system, and continues to be a curator ad litem in relation to adoption and permanence proceedings, and a child welfare reporter in relation to contact and residence disputes. She was a member of the City of Edinburgh Council Child Protection Committee and the Law Society of Scotland's Access to Justice Committee and currently serves on the Quality Assurance Committee of the Scottish Legal Aid Board in relation to Children's Legal Aid.

Dr Kasey McCall-Smith – Afternoon speaker

Dr McCall-Smith is a lecturer in Public International Law and programme director for the LLM in Human Rights. She is a US qualified lawyer. Dr McCall-Smith was awarded an LLM (2002) and a PhD (2012) for her thesis on 'Reservations to Human Rights Treaties' by the University of Edinburgh. She is on the management committee of the Global Justice Academy and its representative to the Association of Human Rights Institutes. Her most recent publications focus on the role of treaty body jurisprudence in national legal systems and the relationship between human rights and business activity in terms of supply chain management.



Professor Kenneth Norrie – Afternoon speaker

Professor Kenneth Norrie has been a Professor of Law at the University of Strathclyde since 1995 and is probably best known as the author of Wilkinson and Norrie's "Parent and Child" and of "Children's Hearings in Scotland" (both now in their third edition). His major research interests include child protection law and legal regulation of same-sex relationships and he has acted as Parliamentary Adviser on many of the major child law statutes to be passed by the Scottish Parliament. He has held visiting professorships across the world, including at the Universities of Sydney, Cape Town, Wellington, Regensburg and Vienna. He is presently working for the Scottish Child Abuse Inquiry, drawing up a report on the historical legislative background to the governance of children accommodated by the state.

Professor Elaine Sutherland – Summary of key messages

Elaine E. Sutherland is Professor of Child and Family Law at the Law School, University of Stirling, Scotland, and Distinguished Professor of Law at Lewis & Clark Law School, Portland, Oregon, spending six months of the year researching, writing and teaching at each. She has lectured on child and family law around the world and, in addition to her work in the Scottish and US domestic contexts, has long pursued her interest in the international and comparative dimensions of child and family law. One aspect of that was establishing the United Nations Convention on the Rights of the Child Implementation Project (CRC-IP) which brings together an invited group of respected child law scholars from around the world on a regular basis to offer critical analysis of the implementation of the Convention, one article at a time.

She is the author of some 100 articles and book chapters, many reflecting her comparative and international interests. These interests are also the focus of two of her more recent books, *The Future of Child and Family Law: International Predictions* (2012) and *Implementing Article 3 of the United Nations Convention on the Rights of the Child: Best Interests, Welfare and Well-being* (2016), both published by Cambridge University Press. Other publications concentrate on Scots child and family law and, most recently, they have addressed reform of the law on adult relationships, child-parent relationships, child protection and juvenile justice. Yet other publications are concerned with more general developments in contemporary Scots law and its history.

Dr Andressa Gadda – Closing remarks

Andressa is a Research Fellow at the University of Stirling's Centre for Child Wellbeing and Protection. Her research focus is on the lives of children and young people and their families. Substantive topics include looked after children and young people; children's rights; child protection; social work practice; and family adversity.



Seminar Series 2017 – Implementing and monitoring the UN Convention on the Rights of the Child (UNCRC) in Scotland

Briefing 1: The UNCRC in Law

Overview of the seminar series

This series of four one-day interdisciplinary and cross-sector seminars will seek to improve -- and address gaps -- in the implementation and monitoring of the [UNCRC](#) in Scotland. Each seminar will examine the UNCRC from the perspectives of law, practice, policy and next steps for implementation. The seminar series is being held in partnership between Together (Scottish Alliance for Children's Rights), the Centre for Research on Families and Relationships at the University of Edinburgh, and the Centre for Child Wellbeing and Protection at the University of Stirling. The series has been funded by the [Scottish Universities Insight Institute \(SUII\)](#).

The dates

The seminars will run as follows:

1. **The UNCRC in Law:** Friday 10th February 2017
2. **The UNCRC in Practice:** Monday 20th March 2017
3. **The UNCRC in Policy:** Monday 24th April 2017
4. **The UNCRC Going Forwards:** Thursday 1st June 2017

Context and aims

Since 2008, there have been significant and welcome legislative and policy developments in relation to children's rights. This includes the Children and Young People (Scotland) Act 2014 that places the UNCRC on statute for the first time, albeit falling short of the UN Committee's recommendation of full incorporation into law.

The 2014 Act requires Scottish Ministers to give due consideration to ways in which the UNCRC can be better implemented in Scotland. Whilst this is a welcome step, it does not ensure that the principles and provisions of the UNCRC are directly applicable and justiciable. Instead, Ministers have discretion as to whether they consider it 'appropriate' to further the UNCRC. Reporting duties on public bodies and Ministers under Part 1 of the 2014 Act provide a welcome and useful opportunity to mainstream children's rights into decision-making but fall short of requiring any action to implement the UNCRC.

Further steps can and should be taken to give legal effect to the UNCRC at both UK and devolved levels. In June 2016, [the UN Committee made 150 recommendations](#) outlining how the implementation of the UNCRC across the UK needs to be improved. Together's [2016 State of Children's Rights report](#) collated evidence from over 380 NGOs and professionals working with and for children to outline how the UN recommendations should be taken forward in Scotland. It is clear from this report that children's lived experiences of their rights remains patchy. This seminar series aims to explore how civil society, children and young people, and academia can work with government to ensure the full implementation of children's rights across Scotland.



Seminar One – the UNCRC in Law

The first seminar will explore the strengths and weaknesses of using legislation to progress UNCRC implementation. From this, we aim to agree a set of priorities for research, policy and practice in Scotland to support the implementation of the Children & Young People Act and drive improved monitoring and implementation of the UNCRC at a local and national government level.

The seminar will include discussion and debate from a range of child law specialists and academics including representatives from Wales, Ireland and Scotland, and presentations from third sector representatives such as Clan Childlaw.

Seminar One - speaker abstracts

Giving Effect to the CRC – Learning from International Experience

Professor Ursula Kilkelly, Head of College, School of Law, University College Cork, Ireland

Article 4 of the UNCRC requires States Parties to take all measures to implement the Convention and, in recent years, focus has intensified on the legal and other means by which Convention rights can be given effect at national level. A number of studies have identified the momentum building, especially in Europe, to incorporate children's rights into national constitutions and [UNICEF's UK study of implementation in 12 countries](#) revealed important trends in the incorporation of children's rights principle into national laws, with interesting results. This presentation will highlight this learning and make recommendations as to how this can be applied in Scotland.

Legislating for the UN Convention on the Rights of the Child in Wales

Dr Simon Hoffman - co-coordinator of the Wales Observatory on Human Rights of Children and Young People, University of Swansea, Wales

Wales-only legislation has incorporated the UNCRC into Welsh domestic law. This presentation will provide an overview of how this has been achieved, and will reflect on the legislation's impact on duty-bearers and others with responsibility for children in Wales. The presentation will also discuss the benefits that have accrued for children's rights in the context of law and policy making. The focus will be on institutional culture and processes of governance and accountability. Wales is often held up as a model on children's rights in the UK. Whilst there has undoubtedly been progress, this presentation will introduce a note of realism: warning that it is unrealistic to expect legislation to carry the burden of children's rights, and reflecting that post-incorporation much work remains to be done to properly embed children's rights in law and policy making.

The Children and Young People (Scotland) Act 2014

Juliet Harris, Director of Together (Scottish Alliance for Children's Rights)

The Children and Young People (Scotland) Act 2014 enshrined the UNCRC into Scots law for the first time, placing a number of duties on national and local governments. Despite this, the 2014 Act falls short of full incorporation. It provides no duty on national or local government to fulfil the requirements of the UNCRC and provides no legal redress for children and young people if their UNCRC rights are violated. This presentation will provide an overview of the strengths and weaknesses of the 2014 Act and explore the extent to which its provisions can be used by government, civil society and children and young people to progress the UNCRC's implementation across Scotland.



Gaps in Legislation - Scotland

Alison Reid, Principal Solicitor and Chief Executive of Clan Childlaw

Clan Childlaw aims to improve children and young people's life chances by using legal skills and expert knowledge to help young people take part in decisions that affect them and by making sure that children's rights are realised in Scots Law. It provides free, child-centred legal representation to children and young people. It delivers practice-based learning opportunities and information on child law and advances legal change to realise children's rights. It works directly with young people whose rights under UNCRC are not being upheld. This presentation will explore some of the current legal issues facing young people in Scotland. It will give examples of where UNCRC has been effectively incorporated into legislation and applied in practice and where this is not the case. It will also identify possible routes to using the law to challenge practice and identify where reference has been made to UNCRC in Scottish Courts.

Afternoon panel session

Delegates will be asked to use learning from the morning sessions to contribute to an afternoon panel discussion focussing on the incorporation of the UNCRC into Scots law. Speakers from the morning session will be joined by, among others, Dr Kasey McCall-Smith, programme director for the LLM in Human Rights at the University of Edinburgh and Professor Kenneth Norrie, Professor of law at the Strathclyde Law School and Scottish legal scholar. The panel will lead an informed and stimulating discussion on the extent to which incorporating the UNCRC into Scots law would support the realisation of children's rights in practice. Closing remarks will be provided by Elaine Sutherland, Professor of Child and Family Law at the University of Stirling and Distinguished Professor of Law at Lewis & Law School in Portland, USA.

More information about the organisers of this event

- [Together](#) (Scottish Alliance for Children's Rights)
- [Centre for Research on Families and Relationships](#) (CRFR) at the University of Edinburgh
- [Centre for Child Wellbeing and Protection](#) (CCWP) at the University of Stirling

For further details on the seminar series, visit the following pages or contact Liz Millership on 0131 337 9015 / liz@togetherscotland.org.uk

- [Eventbrite organiser page](#)
- [SUII information page](#)