

Protecting and empowering children as human rights defenders

**Submission to the UN Committee on the Rights of the Child
by the Observatory on Children's Human Rights¹,
Hillary Rodham Clinton School of Law,
Swansea University**

Written by Rhian Croke, Helen Dale and Hannah Bussicott

1. Introduction

In Wales “children human rights defenders” is not yet common discourse; however children’s human rights are partly incorporated in legislative frameworks and there are many children acting as human rights defenders, even though they may not recognise themselves as such. Like many countries, Wales faces challenges in translating high level commitments on human rights into real improvements in children’s lives.

The DGD provides an opportunity to import the powerful notion of children as human rights defenders into children’s own perception and in to the language of policy, practice and accountability in Wales. The *Observatory* joined with children’s rights activists in Scotland to arrange a DGD Hub on 20 June at the Senedd (Wales’ Parliament) on 20 June 2018, as a launch towards this. Following the DGD Hub, the Observatory is working with its partners in the NGO, statutory and research communities to develop awareness of and engagement with the Committee’s work on the DGD.

2. National policy and legislation that incorporates children’s human rights

In Wales, the *Rights of Children and Young Persons (Wales) Measure 2011*² requires Welsh Ministers, when exercising any of their functions, to have ‘due regard’ to the requirements of the Convention and Optional Protocols as ratified by the UK State Party.³ An administrative scheme made pursuant to the Measure requires Welsh Government to conduct child rights impact assessments for policy and law reform proposals impacting on children. Involvement of children in policy consultations is encouraged but not compulsory and practice is inconsistent. The Observatory’s research (including through its ‘Little Voices’ work with children as researchers, and research conducted by the Children’s Legal Centre) suggests that children as young as 7 want to be involved in thinking about change affecting them and their communities, including law-making on topics that are important to them. The children involved in the Wales/Scotland DGD Hub on 20 June recognised this as part of being ‘human rights defenders’.

3. Children’s human rights approach across all public bodies

The *Observatory* has worked with the Children’s Commissioner for Wales to produce a framework for public bodies to embed children’s human rights their decision-making, policies and practices.⁴ The framework recommends 5 key principles:

- *Embedding*- recognising the importance of putting children’s human rights at the core of planning and service delivery.

¹ <http://www.swansea.ac.uk/law/wales-observatory/>

² Rights of Children and Young Persons (Wales) Measure 2011 <http://www.legislation.gov.uk/mwa/2011/2/contents>

³ This does not give a child a remedy for violation as such, but failure to comply with the duty is justiciable by judicial review.

⁴ <https://www.childcomwales.org.uk/publications/right-way-childrens-rights-approach-wales/>

- *Equality and non-discrimination* - recognising the right to non-discrimination and equal opportunity no matter what a person's status as to age, socio-economic background, gender, culture, disability, sexual orientation or otherwise.
- *Empowering children* –supporting children, giving opportunities to engage with and hold accountable the institutions and individuals that affect their lives.
- *Participation of children* – children's views and perspectives must be given serious consideration and not ignored. Children should be visible, their voices and perspectives never marginalised or silenced.
- *Accountability* – recognising that operationalising children's human rights requires that children be provided with accessible information and given access to procedures which enable them to question and challenge decision-makers.

4. Examples of children acting as human rights defenders

Below we offer two of many examples of children acting as human rights defenders in the broad sense, supported by the *Observatory*, and some reflections on what conditions enable them to do this successfully.

Example 1: Campaign for the Children and Young People's Assembly (CYPAW) for Wales (2014-2016)⁵

In 2014, *Funky Dragon*, the national *Children and Young People's Assembly for Wales* core funding from Welsh Government was ended abruptly. During the Committee's 72nd session which included the UK state Party's 5th periodic examination, the Committee received evidence about this, and made a Concluding Observation relating to it. The young people who ran the campaign for a new Welsh Youth Parliament acted as human rights defenders. With no offices and no staff, they did not give up, but decided to work together with professional volunteers to develop a robust and ground-breaking campaign to establish Wales' first Youth Parliament, a national, permanent elected body of young people meeting in regions and localities as well as periodically at the Senedd, and interfacing with Wales' Parliament, the National Assembly for Wales.

The campaign was successful: the young people successfully defended the participative rights of children throughout Wales. Online voter registration is now underway for the first Welsh Youth Parliament elections to be held in November 2018. Reflecting on the success of the campaign, the following points can be made:

- Young people working in equal partnership with adult professionals is a good way to achieve success*

The board of trustees was mixed in age and experience. During the two-year campaign, the young members grew to be experts themselves, so that by the end, the distinction between the 'young' and 'professional' trustees had practically disappeared. The 'professional' trustees included people with experience of politics, management, research and law. They were also able to facilitate safe and appropriate spaces for all the trustees to meet and to ensure there were human and financial resources in place to empower the young trustees to speak out. Additionally the professionals' experience of policy and procedure helped to ensure that the young trustees' human rights were always protected.

It was neither a case of 'adults helping children' nor of 'children in charge', just people working together in common cause to defend and protect the human rights of children and young people across Wales.

⁵ For a more detailed description of this case study please see Croke, R & Williams J (2018) *The Case for a Children and Young People's Assembly for Wales (2014-2016)*. Swansea University Press

b. The dynamic of the UNCRC can be powerful

The dynamic of the UNCRC reporting process was critical. At a time when the voices of the young trustees and the interests they represented were not being listened to at the national level, they were listened to in the UN human rights process when they submitted their reports and attended pre-sessional and state Party hearings.

Of course, this required fundings, and the campaigners were fortunate to have had sufficient funds left to be able to send representatives to key meetings in Wales, London and Geneva during the process of the State Party examination.

Understanding the power and authority of the UN's Concluding Observations, the trustees used the Committee's recommendation that the state Party should 'expedite the establishment of a youth parliament' at the beginning of their Wales-wide public consultation to find out people's views on the establishment of a youth parliament for Wales.⁶

c. Building an evidenced- based case is essential

It was important that the trustees had sufficient resource to commission the Croke Report,⁷ which made a detailed comparison with best practice from other countries and helped build the evidence based case for the Welsh Youth Parliament. This evidence-based case alongside the clear recommendation from the Committee, helped to influence cross-party political support.

d. It is difficult to engage the media

The young trustees of the campaign did their best to promote media interest in the campaign but were exasperated that in between headlines about 'the EU', 'the Euros' and even 'Voles', there was no coverage. As one young trustee said,

"we constantly hear in the press about disengaged and politically disaffected young people, but young people are not asked for their views on the EU referendum and the perception instead is that young people are more engaged with football than politics and to top it off one of the headline stories is about "Voles" nobody has reported on our positive news story about a group of committed young people who are campaigning for a democratically elected voice for the young people of Wales and desperately and want all young people to have the opportunity to engage and influence local, national and global politics".⁸

e. Developing alliances with other human rights defenders is very important

The support of two successive Presiding Officers of the National Assembly for Wales was invaluable. From the early autumn of 2016 it was clear that they wanted to work with the campaign towards a Welsh Youth Parliament. A plenary debate in October 2016 was the tipping point at which it was clear the argument in principle had been won. Other children's human rights defenders included the Children's Commissioner for Wales, who pressed the case during the UN process and in her own discussions with senior Welsh political figures.

Example 2: *Lleisiau Bach/ Little Voices*

Lleisiau Bach/ Little Voices is a team and an approach managed by the *Observatory*, though its origins were in Funky Dragon. In 2015/16, *Lleisau Bach* submitted the first ever child-led report to the Committee from children under 11 years.⁹

⁶ Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland. CRC/C/GBR/CO/5.

⁷ Croke (2015) A new Youth Assembly for Wales? A comparative exploration into the best practice elements of 17 youth parliaments in the UK, Europe and globally. CYPAW

⁸ Jack Gillum, trustee, speaking at the consultation launch, June 2016

⁹ Little Voices Shouting Out Report to the UN Committee on the Rights of the Child, Observatory on Children's Human Rights, 2015.

Lleisiau Bach, *Little Voices* has worked with children in over 70 local projects in Wales, to research and make recommendations about issues of their own choosing within the framework of the Convention. The children are supported also to work with adults as co-producers of change. The work demonstrates that children from as young as 7 years old, properly supported, can act successfully as human rights defenders and be actively involved in influencing local and national decision making.

Little Voices projects have been carried out with charitable funding from the Big Lottery since 2012. In addition, the methodology has been used to support a secondary school to implement its school parliament. Children from both types of project participated in the DGD Hub on 20 June 2018.

Reflecting on what we have learned from the *Lleisiau Bach Little Voices* work, the following points can be made:

a. Children can and do act as human rights defenders for everyone, not just children

Children in Little Voices projects carry out research on topics as diverse as organ donation, political and human rights literacy, homelessness, play and recreation, access to open spaces, news media, aspects of environmental improvement and health and safety issues such as smoking near children, speeding and use of mobile phones when driving. The approach is unusual in not being constrained by adults' requests or suggestions as to what children should research, or by being directed to 'children's issues'. Children often select issues of general community and public benefit, not necessarily focused only on children, enabling children to act as human rights defenders for everyone. A good example is a current project in which children aged 7 – 10 have chosen to investigate 'loneliness in older people', deciding to seek out local elderly people with whom to work together on community challenges – the first of which, the children suggested, might be the problem of homelessness.

b. Children's research can and does bring about change

The children's work has resulted in change in their localities, in schools, parks and other public spaces, or support for local community projects. The topics they have selected resonate with local and national 'adult' political issues and have challenged assumptions regarding younger children's capacity for political engagement. Children in Little Voices projects have demonstrated their wish to engage with adult 'impact partners' on a wide range of issues of public importance. For children to be able to act as human rights defenders, adults need to revisit assumptions about children's capacity for involvement in decision-making: their agency and active involvement in decisions about their own lives and communities should be and can become, simply, 'normal'.

c. Accountability is very important

The children's research is most impactful when there are ways to follow through on recommendations. More support is needed for this. The *Children's Legal Centre Wales* has been established to help, and is developing resources for education and information on the law and for advice and representation.¹⁰ It is important that such support comes from sources independent of government, or at least does not rely for its existence on government sources.

Key recommendations to the UN Committee on the Rights of the Child

1. No matter the age of the individual (s) everyone can be a human rights defender; children can be human rights defenders too, even very young children.

¹⁰<https://childrenslegalcentre.wales/>

2. All human rights defenders should not be discriminated against and they should be given an equal opportunity to promote and protect human rights, no matter their age, socio-economic background, gender, culture, disability, sexual orientation or other status.
3. National policy and legislation needs to incorporate the full range of children's human rights that support children's human rights defenders to protect and promote their own human rights and the human rights of others.
4. All public bodies should adopt a children's human rights approach (see above) that recognises the importance of empowering children's human rights defenders.
5. National Youth Parliaments are important mechanisms for young human rights defenders to meet, share ideas and become empowered to promote and protect the human rights of others. They should be democratically elected, permanent and protected by law with children's human rights core to their operation.
6. Youth parliaments should canvass other children and young people's views widely so that they have as full as possible and a representative analysis of the denial of the human right (s) they are seeking to address.
7. There should be opportunities in every country for children who are not old enough to be represented on a youth parliament structure to be listened to, heard and have their views taken into account on children's human rights issues that affect them.
8. Children as human rights defenders should be given the space and opportunities to lead on the human rights issues they are concerned about and from their own stand point.
9. All children as human rights defenders should be able to access human rights education and accessible information on the human right (s) that is the focus of concern.
10. All children as human rights defenders should be supported to understand the dynamic of the international human rights framework and its process of reporting.
11. All children as human rights defenders should be able to access training on research and how to create evidence-based recommendations.
12. All children as human rights defenders should be able to access training on how to speak out and hold adult decision makers to account.
13. All of the above should be embedded in the school curriculum, and included in the policies of alternative education institutions.
14. Children and adults should be encouraged to work in equal partnership as human rights defenders to promote and protect children's human rights.
15. Adult professionals working with children as human rights defenders must ensure that they facilitate safe and appropriate spaces for children to meet.
16. Adult professionals working with children as human rights defenders must ensure there are sufficient human and financial resources in place to empower them to speak out effectively.
17. Adult professionals working with children as human rights defenders must ensure that there are policies and procedures in place that protect the children's human rights at all times.