Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

United Kingdom - 1st Session – 2008

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National Report

16. The United Kingdom is party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the UN Convention on the Elimination of All Forms of Discrimination Against Women, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the UN Convention on the Rights of the Child. On 30 March 2007 the UK signed the Convention on the Rights of Persons with Disabilities (CRPD) and aims to ratify the CRPD by December 2008.

38. GB discrimination legislation generally prohibits direct discrimination, indirect discrimination, victimisation and harassment. It prohibits discrimination in the areas of employment (and employment-related areas), vocational training (including further and higher education), education in schools, the provision of goods, facilities and services, private members’ clubs, the disposal and management of premises, and the exercise of public functions. Coverage of these areas is not uniform in relation to all the grounds protected by discrimination law.

76. In association with stakeholders and experts in education and human rights, the Government is developing educational materials for 11-14 year olds on human rights protection within the UK. A range of materials is already available in UK schools about International Human Rights Conventions (such as the Convention on the Rights of the Child). The new materials should be ready for launch in June 2008.

107. Families with dependants under 18 when their claim is determined continue to be eligible for asylum support, until the youngest child reaches 18 or the family leaves the UK. Single people, childless couples, or those families whose households did not include a minor dependant when their claim was determined may also be eligible for support. This is available to refused asylum seekers who would otherwise be destitute and are unable to leave the UK due to circumstances outside their control. It continues until the recipient is no longer eligible.

Compilation of UN information

1. CRC suggested that the United Kingdom of Great Britain and Northern Ireland (United Kingdom) extend ILO Conventions No. 182 and No. 138 to the Overseas Territories (OT).32

3. CERD, the HR Committee, CESCR and CRC expressed concern about the degree of incorporation of their respective treaties into the domestic legal order.43 For instance, the HR Committee regretted that the country, while having incorporated many ICCPR rights through the Human Rights Act 1998, has failed to accord the same level of protection to other ICCPR rights, including the provisions of articles 26 and 27.44 CESCR regretted that the Covenant has still not been incorporated and that the State has no intention to do so in the near future. 45

5. The HR Committee53 and CAT54 welcomed the establishment of police complaints bodies. CRC welcomed the setting up of an independent Children’s Commissioner in Wales, but was concerned at his/her limited powers. It welcomed plans for the establishment of an independent human rights institution for children in Northern Ireland and in Scotland but was deeply concerned that such an institution has not been set up yet in England.55

22. While noting legislative and regulatory initiatives in the area of child abuse, CRC was concerned at the prevalence of violence,
including sexual violence, against children within families, schools, institutions, the care system and in detention. In 2002, CRC, echoed by CESCR,116, recommended prohibiting all corporal punishment of children in the family.117 CRC urged the review of the use of restraints and controls against children in prison. 118

23. While welcoming the 2001 national plan for safeguarding children from commercial sexual exploitation and an MOU between the United Kingdom and the Philippines to combat the issue, CRC was concerned about trafficking for sexual exploitation and called for the review of legislation so as not to criminalize children who are sexually exploited, and the implementation of policies and programmes.119 In 2005, three Special Rapporteurs120 wrote about children reportedly trafficked to and abused in the United Kingdom, particularly girls as young as 2 years old, for domestic servitude, prostitution or to facilitate benefit fraud, and noted the alleged failure of social and immigration services in protecting vulnerable children.121 In response, the State informed of initiatives, including the draft Action Plan to combat Human Trafficking, but was surprised about the claim regarding shortcomings within relevant services, indicating several operational projects dedicated to tackling the issue.122

24. CRC was deeply concerned, inter alia, that about one third of annual recruits are below 18 years of age, that the armed services target young people and that children below the age of 18 take direct part in hostilities overseas. CRC remained concerned at the negative impact of the conflict in Northern Ireland on children, including in the use of emergency and other legislation, and recommended that all necessary measures be taken to prevent the deployment of persons below the age of 18 years in the circumstances.123

30. In 2002 CESCR was concerned that the national minimum wage does not provide workers with an adequate standard of living and that minimum wage protection does not extend to workers under 18 years of age.143

31. CESCR reiterated its concern about the persistence of considerable levels of poverty, especially in areas such as Northern Ireland, and among ethnic minorities, persons with disabilities and older persons,144 and urged the State to continue to address this issue.145 Both CESCR and CRC were concerned at the high levels of children living in poverty.146 CRC noted the lack of an effective and coordinated poverty eradication strategy and urged the State to take all necessary measures to accelerate the elimination of child poverty.147 A 2005 UNDP Report noted that at the end of the 1990s, the United Kingdom had one of the highest rates of child poverty in Europe, while noting an impressive decline.148

33. CRC152 and CESCR153 remained concerned that the educational structure in Northern Ireland continues to be largely segregated and recommended a budget increase for, and facilitating the establishment of, additional integrated schools in the area. In her 2002 report on Northern Ireland, the Special Rapporteur on the right to education called for a study of the financial cost of the fragmented education infrastructure and devoting more funding to teaching and learning.154 She also noted that sectarian harassment and social exclusion victimize schoolchildren155 and recommended the urgent development of safeguards and accountability mechanisms.156 CRC called for measures to reduce temporary or permanent exclusion and guarantee access to full-time and quality education for all children.157

35. In 2001, the HR Committee expressed concern, as also highlighted by UNHCR,161 that asylum-seekers have been detained on grounds other than those legitimate under the ICCPR and recommended an end to detaining them in prisons. It noted, moreover, that asylum-seekers, after final refusal of their request, may also be held in detention for an extended period when deportation might be impossible.162 CRC recommended, inter alia, that the State refrain, as a matter of policy, from detaining unaccompanied minors and ensure the right to speedily challenge the legality of detention and to take all necessary measures to prevent children being forced to leave when they reach the age of 18 years.163

39. Overseas territories. The abolition of the death penalty in the OT was welcomed while its retention in the Turks and Caicos Islands for piracy and treason was noted.171 In 2001, the HR Committee was deeply concerned at the weaker, more irregular protection of ICCPR rights in the OT than in the metropolitan area, that the Human Rights Act 1998 does not extend to all OT, and that ICCPR rights are not incorporated in the OT’s legislation.172 In 2000, CRC recommended an assessment of the child labour situation in the OT and an introduction and/or strengthening of monitoring mechanisms.173

**Summary of stakeholders’ information**

1. Amnesty International (AI) recommended the ratification of the Convention on the Rights of Persons with Disabilities2; the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the International Convention for Protection of All Persons from Enforced Disappearance and the First Optional Protocol to the ICCPR,.3 Save the Children United Kingdom (SC United Kingdom) and AI recommended that the United Kingdom ratify the Optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution and child pornography4.

2. The Children’s Rights Alliance for England (CRAE) highlighted that while the United Kingdom ratified the CRC in 1991, it has only ratified one of the Convention's two Optional Protocols (on the involvement of children in armed conflicts), and the latter with such a far-reaching declarative interpretation as to make its ratification effectively meaningless.5 SC United Kingdom mentions that the United Kingdom continues to have two reservations in place on the CRC despite calls from the Committee on the Rights of the Child6 in 1995 and 2002 to remove them. SC United Kingdom noted that there has been no progress on removing the general reservation on ICCPR rights in the OT than in the metropolitan area, that the Human Rights Act 1998 does not extend to all OT, and that ICCPR rights are not incorporated in the OT’s legislation.172 In 2000, CRC recommended an assessment of the child labour situation in the OT and an introduction and/or strengthening of monitoring mechanisms.173

4. CRAE noted that in October 2007 the Equality and Human Rights Commission (EHRC) was established as the United Kingdom’s first national human rights institution. The EHRC is a non-departmental public body established under the Equality Act 2006 –
accountable for its public funds, but independent of Government.10 CRAE very much welcomed the appointment of a Children’s Commissioner in England in 2005, although it had serious reservations about the Commissioner’s narrow remit (to promote awareness of children’s views and interests, rather than to promote and protect their human rights), limited independence and lack of powers.11

7. The Crucible Center (CC) observed that Citizenship’ was introduced into the National Curriculum for England by the Department for Education and Skills, at first for primary schools in 2000 and then extended to secondary schools by 2002. At present human rights education is not part of the national curriculum but the CC was of the opinion that it is under the umbrella of citizenship that human rights can best be taught.15

10. The CRAE highlighted that lesbian, gay and bisexual people (including children) have recently gained new protection with the passing of the Equality Act (Sexual Orientation) Regulations 2007, which make it unlawful to discriminate in the provision of goods, facilities and services on grounds of sexual orientation. The Government announced in 2007 its plan to introduce legal protection from incitement to hatred on the grounds of sexual orientation.18

11. The NIHRC is deeply concerned at the persistent inequalities facing the Irish Traveller community in all walks of life. Despite the Committees on the Elimination of Racial Discrimination, on Economic, Social and Cultural Rights and on the Rights of the Child consistently urging Government to address these inequalities the Traveller community has seen little to no improvement in the protection of its fundamental human rights to, for example, social housing, education, health care and employment opportunities.19

15. As stated by the Global Initiative to End All Corporal Punishment (GIEACP), corporal punishment is lawful in the home in the United Kingdom, in all of the Overseas Territories and in the Crown Dependencies. Corporal punishment is prohibited in schools in the United Kingdom, but is allowed in many of the Overseas Territories and Crown Dependencies.26 GIEACP called on the United Kingdom to introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home, and ensure that its overseas territories and colonial dependencies take similar measures.27

16. According to the National Society for the Prevention of Cruelty to Children (NSPCC), in failing to afford children equal protection under the law on assault, the United Kingdom Government is in breach of its human rights obligations under Articles 2, 3 and 19 of the Convention on the Rights of the Child, and other human rights instruments.28

22. SC United Kingdom and the Commission on Families and the Wellbeing of Children (CFWC) observed that the age of criminal responsibility in the United Kingdom is much too low – 10 years in England, Wales and the Northern Ireland and 8 years in Scotland. This is lower than most European countries.41 The NIHRC added that there is no coherent multiagency strategy to respond to the needs of children in conflict with the law who are diagnosed as mentally ill or with behaviour or personality disorder.42 SC United Kingdom recommends that the United Kingdom should raise considerably the age of criminal responsibility43, and the CFWC recommends that it should be raised to 12.44

23. The CRAE observed that the United Kingdom falls far short of its international human rights obligations in its treatment of children in conflict with the law. The CRAE reported that the United Kingdom is the biggest child incarcerator in Western Europe. Twenty nine children have died in custody in the last 17 years, and the United Kingdom has never held a public inquiry into a child’s death in custody. Inquests this year into the tragic deaths in 2004 of two teenage boys, both following the use of restraint, revealed serious failings by the Government and the Youth Justice Board. 45 The CRAE added that the Government has set up a welcome independent review of physical restraint of children in custody. However, in the meantime it allows staff in privately run child prisons to use very painful nose, rib and thumb ‘distraction’ techniques and, in July 2007, introduced regulations that allow such techniques to be used to achieve good order and discipline. This effectively introduces corporal punishment into secure training centres – places of detention for children as young as 12.46

24. SC United Kingdom highlighted that Anti-Social Behaviour legislation in England and Wales continues to allow children to be named and shamed despite a recommendation by the Committee on the Rights of the Child47 to ensure that the privacy of children is protected.48

28. The levels of child poverty are, according to SC United Kingdom, unacceptably high – with 3.8 million children living below the poverty line and 1.3 million children living in severe poverty. The Government missed its target (set in 1999) of reducing child poverty by a quarter in 2006. In 2007, child poverty levels rose for the first time in seven years. It now looks increasingly likely that, without significant policy intervention, the Government’s target of halving child poverty by 2010 will be substantially missed.52 SC United Kingdom recommends that the United Kingdom should allocate the additional funds needed to meet its target of halving child poverty by 2010 as a matter of urgency.53

29. The NIHRC noted that according to Government figures, 29 per cent of children in Northern Ireland are living in poverty. It welcomes recent government targets for ending child poverty in the region by 2020, halving child poverty by 2010 and ending severe child poverty by 2012. Given that there has been little progress made in reducing child poverty, the Commission considers that the Northern Ireland Assembly should be asked to demonstrate clearly how its budget and actions will achieve these targets.54

33. SC United Kingdom stated that the educational attainment of some groups of children are significantly below the national average – specifically among working class White males and children from some minority ethnic groups such as Gypsy/Traveller children and Black and Asian children. Children in custody in England and Wales remain excluded from the statutory right to education under Section 562 of the Education Act 1996 despite the Committee on the Rights of the Child58 urging the Government to address this inequality.59 SC United Kingdom recommends that the United Kingdom Government should: put more resources into addressing inequalities in the educational attainment of disadvantaged children and young people, including: the poorest children, looked after children, Gypsy/Traveller children, disabled children and those with additional support needs; considerably reduce school exclusions; and give
children in custody a statutory right to education.

36. The CRAE affirmed that the United Kingdom is still failing to meet its obligations stemming from the CRC to protect refugee and asylum seeking children. Apart from suspected terrorists, asylum seekers – including children - are the only persons in the United Kingdom who can be detained without any judicial scrutiny. 67 SC United Kingdom adds that the four United Kingdom Children’s Commissioners have also expressed “profound” concern about the detention of children. In 2006, 1,235 asylum-seeking children were detained with their families for between 7-268 days.68 SC United Kingdom recommends that the United Kingdom end the detention of asylum-seeking children in families in immigration removal centres. It further recommends that the United Kingdom scrutinise the Unaccompanied asylum seeker children reform proposals against the framework of the CRC.69

37. There is increasing concern over the development of dual systems of care and support – one for citizen children and one for asylum seeking, trafficked and other children who are subject to immigration controls. SC United Kingdom informed. Asylum seeking families still receive much fewer benefits than other destitute families and access to education remains subject to unacceptable barriers.70 AI recommended that refused asylum seekers who cannot be safely returned should be granted a form of temporary leave to remain that allows them to work and access support while in the United Kingdom.71

Final Report

- Referring to questions from Denmark, Finland, France, Italy and Sweden about the United Kingdom’s policies with regard to children’s rights, the United Kingdom believed that no child should be subjected to violence or abuse, and noted that the law had been tightened in a number of areas to give greater protection to children, notably the criminal law. The criminal law had been amended so that parents who cause physical injury to their children could be prosecuted, and could no longer use the “reasonable punishment” defence for assaults occasioning cruelty, actual or grievous bodily harm. The United Kingdom will invest over £118 million in family support in England in 2008-2009 and it is funding an ongoing four-year strategy to help raise standards of child protection in the United Kingdom Overseas Territories in line with the Convention on the Rights of the Child (CRC). Regarding its child poverty strategy, the United Kingdom’s target is halving child poverty by 2010 and eradicating it by 2020, and it would invest £125 million in related pilot schemes over the next three years. It remained firmly committed to the Optional Protocol on the involvement of children in armed conflict to the CRC. The Government recognised the importance of providing special treatment for young people under the age of 18 serving in the armed forces, and the United Kingdom has robust and effective safeguards in place to ensure that under 18 year olds in the armed forces are cared for properly and are not placed unnecessarily at risk.

- Since the signing of the Optional Protocol on the sale of children, child prostitution and child pornography (OP-SC) to the CRC the law has been strengthened and a range of practical measures have been developed to assist enforcement. The United Kingdom is currently assessing how far its domestic legislation is compliant with the Optional Protocol, prior to its ratification. The United Kingdom’s reservation to article 37 (c) of the CRC - about separation of children from adults in custodial establishments - was currently under review. In the view of the United Kingdom, custodial establishments in England and Wales meet the requirements of the article. The Scottish Executive is also considering changes to ensure that policy, legislation and practice meet the requirements of article 37 (c) of the CRC. The Northern Ireland Government is currently legislating to end the practice of accommodating 17-year-old girls with adult female prisoners. The Minister noted that the United Kingdom is currently reviewing the need for the reservation relating to the application of its immigration laws in the light of recent developments in policy and practice on safeguarding children, and in view of the intention to ratify the Council of Europe Convention on Action against Trafficking in Human Beings later this year.

(ii) Interactive dialogue and responses by the State under Review

- Belgium also referred to the 1998 Human Rights Act and, as noted in the State report, that this piece of legislation has been the subject of hostility among the media in the United Kingdom. Belgium noted with interest various measures for public education on human rights, and asked about the functions and successes of the newly created mechanism of human rights press officers.

- Russia recommended that the United Kingdom consider removal of its reservations to the Convention on the Rights of the Child and the Optional Protocol on the involvement of children in armed conflict;

- Slovenia noted the issue of detention of children with their families, without charge or trial and for unlimited time and without automatic supervision of the court. In this regard, Slovenia asked how the United Kingdom ensures that children in asylum-seeking families are only detained as a matter of last resort and for the shortest possible time, in line with article 37(b) of the CRC. Slovenia also noted that the United Kingdom has not yet fully outlawed the physical punishment of children and asked if it intended to provide all children with equal protection from violence under the law, and if so, by when.

- In response to the question from Slovenia regarding detention of children, the United Kingdom stated that unaccompanied children are not normally detained. The only two exceptions are if the child is part of a family group and detention is deemed necessary, or wholly exceptionally for the protection of an isolated child, and then normally only over one night, until alternative facilities are found. It reminded the meeting that all detainees can challenge the lawfulness of their detention, including through judicial review and habeas corpus. Regarding questions on the punishment of children, the United Kingdom keeps a careful eye on this issue, noting that it sees no evidence that the law is not working to protect children, that there should be reasonable scope for parents to discipline, and that as surveys show that smacking has already declined it sees no current need to amend the law.

- Japan noted the reference in a report that an NGO suggested that the United Kingdom ratify the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, and asked what concerns United Kingdom had for not doing so.

- France noted the issue of corporal punishment, and recommended that the United Kingdom consider going beyond current legislation and ban this also in private sector and in its Overseas Territories. With regard to reducing poverty among children in half by 2010,
France recommended and encouraged further information on such steps.

- The Islamic Republic of Iran noted the concerns expressed by various human rights mechanisms about a series of human rights violations in the United Kingdom, including sexual violence against children within families, schools and detention centres. The Islamic Republic of Iran asked about the concrete measures taken by the United Kingdom to address the said deteriorating human rights situation.

- In response to questions from Ghana and Peru about mainstreaming a human rights culture, the United Kingdom informed the meeting of significant improvements in how public services are delivered. The Ministry of Justice had prepared a human rights teaching resource for children ages 11 to 15, to be released later this year, as well as an e-learning package on human rights. Consultations are intended on a new bill on rights and responsibilities, the fundamental goal of which is to build on the existing Human Rights Act.

- Morocco is implementing a national plan of action in the field of human rights education, and expressed interest in the programmes in the United Kingdom and the materials designed for 10-14-year-olds.

- Sweden expressed concern about the continued legality of corporal punishment contrary to the recommendation made by the Committee on the Rights of the Child on the issue and recommended to the United Kingdom to reconsider its position in this regard.

- Azerbaijan referred to the concern expressed by CERD, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child regarding the degree of incorporation of the treaties into the domestic legal order and asked what measures are taken by the Government to better guarantee the rights in those treaties, given the specificities of the dualist legal system of the United Kingdom.

- Algeria referred to paragraph 23 of the summary report stating that the United Kingdom is the biggest child incarcerator in its region and privacy of the child is not observed, and recommended that it address the high incarceration rate of children to ensure that the privacy of children is protected and to put an end to the so-called “painful techniques” applied to children.

- Algeria referred to paragraph 34 of the summary report stating that many asylum-seekers do not receive asylum support, that the United Kingdom Borders Act of 2007 failed to address this problem and that the children of refugees and asylum-seekers do not enjoy the protection called for by CRC.

- Italy requested further information on programmes to enhance human rights education in schools, especially in primary and secondary schools, and on the production of new educational materials. Finally, on the issue of the rights of the child, Italy recommended that the United Kingdom consider further measures to address the problem of violence against children, including corporal punishment.

- Romania asked whether the United Kingdom could elaborate on the impact, at the national level, of the 2001 National Plan for safeguarding children from commercial sexual exploitation and on the intentions of the Government regarding the ratification of the Optional Protocol to CRC on the sale of children, child prostitution and child pornography.

- While welcoming the ratification of CRC in 1991, Indonesia noted that only one of the two Optional Protocols - on the involvement of children in armed conflict - has been ratified. It further noted with regret that two reservations to CRC remain and recommended that the United Kingdom withdraw its reservations.

- Brazil noted that the Committee on the Rights of the Child urged the United Kingdom to tackle inequalities prevailing for children in custody, who do not have the statutory right to education, and asked whether the United Kingdom could elaborate on this and on the legal age of children in custody. Brazil requested the United Kingdom to provide information on the strategy followed to address inequalities in the right to education of children from ethnic minorities.

- The United Kingdom responded to questions. Commencing the age of criminal responsibility at 10 years helps children because at that age they can generally tell the difference between bad behaviour and serious wrongdoing. In all cases, interventions are designed to be rehabilitative, not punitive. Switzerland was thanked for its appreciation of the United Kingdom’s human rights training package and the United Kingdom would be delighted to share its resources with international partners.

Conclusion and Recommendations

In the course of the discussion, the following recommendations were made to the United Kingdom of Great Britain and Northern Ireland:

- To address the high incarceration rate of children, ensure that the privacy of children is protected and put an end to the so-called “painful techniques” applied to children. (Algeria)

- To consider further measures in order to address the problem of violence against children, including corporal punishment. (Italy)

- To reconsider its position about the continued legality of corporal punishment against children. (Sweden)

- To consider going beyond current legislation and to ban corporal punishment, also in the private sector and in its Overseas Territories. (France)

- To provide further information with regard to efforts to reduce poverty among children in half by 2010. (France)

- To protect the children and families of migrants and refugees (Algeria, Ecuador) and to accede to the International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families. (Algeria, Ecuador and Egypt)
- To withdraw its reservation to the Convention on the Rights of the Child, concerning the provision that detained children be separated from adults while in detention, as well as the reservation concerning refugee and asylum-seeking children. (Indonesia)

- To consider removal of its reservations to the Convention on the Rights of the Child and the Optional Protocol on the involvement of children in armed conflict. (Russian Federation)