

Committee on the Rights of the Child Day of General Discussion

The Right of the Child to Education in Emergency Situations

Submission by the Children's Law Centre, Northern Ireland

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Introduction

The Children's Law Centre (CLC) is an independent voluntary organisation working in Northern Ireland to promote the rights of children and young people. This submission draws on the experiences of Northern Ireland as a society in conflict and emerging from conflict. It seeks to inform the discussions of the Committee on the Rights of the Child on the right of the child to education in emergency situations most notably low intensity conflict.

Education and the Conflict in Northern Ireland: Background

Northern Ireland has suffered many years of violent conflict and its society endures deep religious and political divisions. Between 1969 and 2003, 274 children aged 17 and under, and 629 young people aged 18-21 years lost their lives as a result of the conflict (Smith et al, 2004: 9). Almost three quarters of children under 18 years who died were Catholic and a fifth were Protestant (*Ibid*, 18-20). In addition to those young people killed or injured in the conflict, more than a generation of young people have been exposed both directly and indirectly to violence, conflict, hostility and pervasive sectarian prejudice. The majority of those affected directly live in areas experiencing the highest levels of deprivation and poverty (Horgan and Kilkelly, 2005: 7). Particularly in Nationalist and Republican communities, children experienced house searches by the British Army and the then police force the Royal Ulster Constabulary (RUC), forced entry into homes and arrests in the early hours of the morning by armed police, imprisonment of parents or parents going 'on the run', violent confrontations and deaths on the streets (Kilkelly et al, 2004: 243). In addition, paramilitary organisations, undertaking informal policing in many communities, administered severe punishments to those involved in alleged 'unacceptable' behaviour. Between 1988 and 2002, 496 young people under 20 years received paramilitary punishment beatings, and 388 were shot, usually through the knees or thighs (Smyth et al, 2004: 88-89). While these severe forms of violence have eased, threats and intimidation of young people continues, especially in deprived urban areas which were most associated with high levels of conflict-related violence (Kilkelly et al, 2004: 241-242; Smyth et al: 57-61; Hansson, 2005: 85-93; Roche, 2008: 176-193; Haydon and Scraton, 2008: 70-71). Sectarianism and sectarian violence continue to be a problem (Jarman, 2005: 3-4) and in 'interface' areas, varying levels of intercommunity tension continue to be the norm rather than the exception (Jarman, 2006: 42).

The impact of the conflict on children is slowly being recognised to be wide and deep (Smyth et al, 2004; Horgan and Kilkelly, 2005; NICCY, 2007) and sectarianism and division continue to affect children's well-being (Haydon, 2008). Those who experienced and witnessed these events as children now have children of their own and trans-generational trauma manifests itself in their children's education, mental health and their ability to participate in society (Kilkelly et al, 2004: 244). The

prevalence of violence during the conflict has led to its normalisation as a means of settling disputes and drawing attention to perceived injustice (Horgan and Kilkelly, 2005: 13).

Northern Ireland's divisions are mirrored in its educational system; schools are almost completely religiously segregated - the religious communities play a central role in the management of these schools, a position which is set down in legislation – and the religious divide is reflected in their pupil profile. As a result, only 6% of children currently attend 'integrated' (mixed religion) schools, with the remainder attending either Protestant or Catholic schools (Department of Education, 2008). The lack of integrated schooling was criticised by the Committee on the Rights of the Child in 2002, which recommended that the UK 'increase the budget for and take appropriate measures and incentives to facilitate the establishment of additional integrated schools in Northern Ireland to meet the demand of a significant number of parents' (Committee on the Rights of the Child, 2002: para 13). The number of children attending Irish language schools (i.e. schools where children are taught through the medium of Irish) is increasing (currently 0.8% (*Ibid*)), but demand for Irish medium education still exceeds available school places, and such schools are poorly resourced (Kilkelly et al, 2004: 111).

During the conflict, society's problems were often reflected in Northern Ireland's schools. Far from being 'havens of peace' in an otherwise 'conflict affected society' (Smyth et al, 2004: 103) the heavily segregated educational system is considered by some to have exacerbated the legacy of sectarianism and division (Kilkelly et al, 2004: 139). Schools have struggled to deal with the impact on their pupils of the wider divisions in society, while at the same time being expected to improve community relations through the education process (*Ibid*: 141; Smyth et al, 2004: 103). This has meant, for example, that teachers have had to restrict pupils' access to recreation areas to protect them from external attacks (Leonard, 2004: 71), placing an immense strain on teachers working in schools in 'interface' areas (Kilpatrick and Leitch, 2004). This task is considered more difficult where children, traumatised as a result of conflict related issues, do not have access to the necessary counselling services (Horgan and Kilkelly, 2005: 13). No strategy has even been developed to deal systematically with these problems.

Although a political settlement was reached in 1998, it is apparent that the Northern Ireland conflict has impacted and continues to impact on schools in several ways (Kilkelly et al, 2004: 141). These can be summarised in terms of ongoing tension and disturbance; the impact of traumatic community events or atrocities; specific incidents affecting pupils and their families, and attacks on the school and its personnel (*Ibid*; Leitch and Kilpatrick, 1999: 13-17). These issues relate to the fact that schools are part of the community and thus cannot escape what happens outside its gates; this is perhaps exacerbated by the fact that in Northern Ireland communities are bound by strong links to religious and national identity.

Even as Northern Ireland moves towards a post-conflict society, victimisation, bullying and physical assault of pupils on their way to and from school continues as a clear indication of how the State continues to fail to protect children from breaches of the right to education that result from or are related to the conflict (Kilkelly et al, 2004: 141; Conway, Byrne and Ostermeyer, 2005: 4). In one study of secondary

schools in Belfast, 26% of young people felt intimidated on the school journey, while 51% had experienced an incident of violence and/or threatening behaviour, with the most frequent incident being a school bus being attacked (Conway, Byrne and Ostermeyer, 2005: 4). Moreover, 66% felt that the police did not provide a safe environment for them to get to school safely (*Ibid*). This shows that while the experience of pupils at Holy Cross primary school in North Belfast in 2001 - where terrified children, some as young as four years, were forced over a period of several months to endure the serious attacks, threats and intimidation of violent protesters while on their way to school – was particularly serious, it was not an isolated incident. The complaints of one mother, that inadequate policing of the protests at the Holy Cross primary school resulted in her child suffering inhuman and degrading treatment contrary to Article 3 ECHR, was recently heard in the House of Lords; judgment is awaited. Regardless of the outcome, it is clear that the handling of this event, which was broadcast all over the world, constituted an egregious violation of the rights of these children (Kilkelly et al, 2004: 185). In such circumstances, schools have become the battleground for certain lingering elements of the conflict (Kilkelly et al, 2004: 141; Leonard, 2004: 3-4; Cadwallader, 2004).

More generally, research has identified that in Northern Ireland, children do not fully enjoy the right to access education without discrimination, equal opportunity in education or to have a say in decisions made in the educational context (Kilkelly et al, 2004: 115-117). Problems exist around the role of human rights education, conflict between parents' and children's rights on matters of religious and sex education, the application of due process standards to school exclusion proceedings and equal access by minority groups to education (*Ibid*: 132, 135-139; Lundy, 2005; Lundy; 2000).

The Role of Education in Conflict and Post-Conflict

Despite these difficulties, education can play a pivotal role in protecting the rights of children during conflict, and ensuring a successful transition towards a post-conflict society. To this end, children's rights to, in and through education – including the right to inclusive, rights-based and quality education - must be enshrined in law and fully protected in practice in line with the obligations of Convention on the Rights of the Child (CRC). Education is a right of fundamental importance to children and it is especially important during conflict and in the transition towards a peaceful society. The vindication of the child's rights to, in and through education is the primary duty of the state and this duty endures regardless of a conflict or its causes. Under Article 4 of the CRC, states are under a duty to take all necessary measures to implement the rights of the child. This includes entrenching the right to safe, inclusive, accessible and effective education in legislative and constitutional instruments to safeguard the child's right to education (Committee on the Rights of the Child, 2002: para 19). It must also require the adoption of policy articulating in detail how children's rights are to be protected in schools and in accessing schools, by all duty bearers in all circumstances, including in conflict and post-conflict situations (Kilkelly et al, 2004: 142). In addition to placing obligations on Government as the primary duty-bearer, the child's right to education also places obligations on teachers, health and social services, the police and others, who must work together to ensure children's rights are paramount. Statutory duties should be placed on these bodies to require them to act in the best interests of the child, taking the views of the child into account in all decisions concerning the child.

Working Group 1: Continuation and/or reconstruction of the educational system

The CRC requires that children enjoy a safe and inclusive environment in which to benefit fully from education during and after conflict. During conflict and in post-conflict societies, schools must be maintained as places of education which protect children's rights and promote respect for the human rights of all. The educational system must be organised to ensure that schools are child-friendly, and secure equal treatment and equality of opportunity to all children without discrimination. Particular efforts should be directed at ensuring that schools are accessible to especially vulnerable groups. In terms of conflict, special measures should be taken to prevent early school leaving and to ensure that those whose education has been interrupted (e.g. following imprisonment or while they undertake caring roles), can nonetheless benefit from the right to education, including vocational education.

In an emergency or post-emergency society, schools must be fully protected from the violence ongoing in communities. The inextricable link between schools and communities can make it difficult to protect schools and children's education from the impact of conflict outside. While the child's right to protection travelling to and from school is considered below, it is important that schools provide constructive, proactive support for pupils in the context of the conflict (Leitch and Kilpatrick, 1999: 19) and schools should take positive steps to address children's educational rights and personal needs, including counselling, treatment, support and advocacy.

A number of factors contribute to a school's success in generating the constructive and supportive atmosphere conducive to the fulfilment of the child's rights to education during and after conflict. These include: the school's developmental intent (the aim and commitment of schools to address the rights and needs of children arising from the ongoing conflict); leadership within the school, and the school context including its geographical, social, economic and political context (Leitch and Kilpatrick, 1999: 19). A range of school activities should be undertaken with a view to responding effectively to the students' needs in light of the conflict and fulfilling their rights. These include:

The provision of pastoral care and counselling

Further to Articles 24 and 39 of the CRC, schools should ensure that pastoral care is provided in the school environment. Together with health and social services, schools should make available dedicated, child-specific professional counselling and treatment services, and promote peer support/mentoring among the students (*Ibid*: 20-22).

The promotion of parental and community links with the school

Schools should aim to develop and maintain strong links between the school and its community, including by actively encouraging parent involvement (Leitch and Kilpatrick, 1999: 22-23) and facilitating the participation of children and young people. The participation of children and parents in the running of the school and the design and implementation of school policy serves to reinforce positive links between communities and schools, and enhance the transparency and accountability of both schools and the implementation of education rights generally.

The ethos of the school

Schools should agree and implement a set of values that define its ethos. Critical here are respect for the rights of students and their views, the maintenance of positive relationships between teachers and students, and the acceptance of shared values of equality, dignity and respect for human rights (*Ibid*: 24) (Article 29 CRC). Particular priority should be attached to the duty to listen to children and young people and facilitate their participation in school decision-making.

Human Rights and Peace Education:

Article 29 of the CRC makes clear that the state has a duty to deliver a curriculum that incorporates human rights and teaching that distils in children key values of peace, dignity and equality. To fulfil the duties under the CRC, and promote the value of education in addressing conflict, the curriculum should include civic education, learning about different religious and cultural traditions and incorporate impartial political and historical education about the conflict and its causes. Teachers should be trained and given the resources (including adequate time in the curriculum) to deliver this curriculum in an impartial and objective manner. Schools should work actively with children from an early age, to encourage them to explore a range of different cultural practices, events and symbols, and to appreciate and respect diversity. They should develop children's self-esteem and their capacity to form views, supporting young people's independent thought and expression. This will in turn develop their capacity to articulate their views in decisions made about them (Article 12 CRC; Leitch and Kilpatrick, 1999: 24-29). These are important elements of the right to education for children of all ages, and it is especially important that younger children benefit from such education in schools given the extent of community influence on children's attitudes and values (Connolly and Healy, 2004; Roche, 2008).

Cross-Community Relationships

Research has identified that in Northern Ireland, especially in interface areas, children and young people have little interaction with those from other communities (Hansson, 2005: 98) Research has also indicated the extent to which strained relationships between communities can be reinforced by schools (Leonard, 2004). So that education plays a constructive role in promoting a lasting solution to conflict, schools should aim to build and sustain relations with schools in other communities to encourage broader understanding, develop inter-personal relationships and undertake shared activities that demonstrate the similarities (rather than the differences) between all children. These initiatives must be meaningful and sustainable, as students tend to be dismissive of tokenistic events (Kilpatrick and Leitch, 2004) and they should be given strategic priority in government education, community policies and peace-building policies. Schools are well-placed to undertake such cross-community work which can form a valuable part of community relations, while also playing an educational role. Experience shows that such programmes must be carefully planned and organised (Connolly and Healy, 2004; Leitch and Kilpatrick, 1999: 29-30) and children and young people must have an active role in this process. Schools should not be left to undertake these activities alone but should be supported in doing so, including through the allocation of resources, by relevant statutory agencies as part of a strategy on integration and peace-building.

School as a Protected Area

In order to ensure that children's rights are protected in education both during conflict and in post-conflict societies, schools must resist being drawn into the conflict. While acknowledging the impact of the conflict on children and communities, teachers must remain independent and impartial, and reinforce the shared value of respect for human rights. This may present a challenge to a teacher's own identity, but is vital to the objective of preserving the school as a protected area in the context of conflict. To this end, schools must ensure that every child's right to religious freedom is respected (Article 14 CRC) and that all available measures are taken to ensure that schools are safe places for children - free from violence, bullying and conflict inflicted by adults or other children (Article 19 CRC; Report of the Independent Expert for the UN Study on Violence against Children, 2006: 15). Teachers need to be especially alert to bullying related to the conflict, such as where children of prisoners or police officers are singled out for abuse. In addition to drafting and implementing policies against violence and bullying, teachers must provide clear leadership by tackling abuse quickly and directly, making it clear that it has no place in the school environment. Effective remedies – including information, advocacy and legal representation - should be made available to children and young people who suffer breaches of these rights.

Respect for children's rights to education requires the state to fulfil its obligations to ensure children get to and from school safely. Ensuring safe access to school is integral to the right to education, and is also instrumental in protecting children from harm (Article 19 CRC and Article 3 ECHR). Although this places immediate duties on the school, the police and other services the Government is the primary duty-bearer. In this regard, a national strategy should be developed to ensure that the co-ordination of such interventions in children's education serves to prioritise the rights of children to enjoy safe access to school. Statutory expression should be given to the duty to ensure that children's rights – to education and to protection from harm - are paramount in the implementation of measures taken by education, policing and other bodies in operations of this nature. Good practice should be adopted to enable a rapid response to any problems raising such child protection concerns, and to ensure that all such decision-making is children's rights compliant. Effective and speedy remedies should be available to respond to any breaches of children's rights which occur during such events.

Window of Opportunity

Given the importance of education to children and to society as a whole, it is vital that states focus on the child's right to education during and after conflict – economically, politically, and legally. States frequently divert their education budget to other areas of spending both during conflict (for policing, criminal justice and prison costs), and during the post-conflict process (for reconciliation and peace-building initiatives). Instead, fulfilment of children's right to education compels states to invest heavily in education, increasing their spending during these periods so as to offset any adverse impact that the conflict may have on children's lives. The additional resourcing of education during and after conflict is also required to maximise access to education, promote its effectiveness and ensure that its pedagogical and broader objectives are met.

From a political perspective, it is vital during and post conflict that priority is attached to vindicating the child's rights to education. This has two elements: first, it is critical that education does not become politicised and that measures are adopted to ensure that all decision-making relating to education, including policy, reform and budgetary matters, remains compliant with children's rights. Such statutory provision should be designed to ensure that difficult and controversial decisions are made impartially and in compliance with children's rights. This is especially critical where different viewpoints are associated with particular communities or political groups, or where a (necessary) challenge to the status quo is proposed. The second element here relates to the positive momentum that can build up around political settlement. Experience shows that this may create an appetite for change and reform that can be put to good use in the protection of the child's right to education. Accordingly, the window of opportunity presented by emergency situations or peace-building must be maximised to address children's rights concerns relating to education, with specific reference to the conflict and generally. In this regard, the right to education must be expressly mentioned in peace agreements and settlements. The goodwill and demand for change that often exists at such times – among political representatives and the public – should be put to use by tackling the education system's most intractable problems. Measures should be taken, in consultation with children and young people, to

- Re-examine and address inequalities in access to education amongst marginalised and minority groups, including children in communities most impacted upon by the conflict, ethnic minorities, children with disabilities, children living in poverty and immigrants. This is vital to achieve compliance with Article 2 of the CRC;
- Reassess the aims and objectives of the educational system in terms of its focus on academic curriculum and its compliance with the broader goals of Article 29 of the CRC, including the focus on fulfilling children's potential and their personal development;
- Establish at the heart of the educational system and place on a statutory basis the core values of children's rights, including respect for non-discrimination, the best interests principle and the child's right to have a say in decisions that affect him/her. Stated policy objectives should include the duty to ensure that education is child-centred, child-friendly and empowering;
- Undertake a fresh, critical and if necessary, radical review of the structure and organisation of the education system with a view to ensuring the child's right to education without discrimination on any grounds, including socio-economic, and reforming unacceptable practices that perpetuate division and generate inequality. This is necessary to establish a system that ensures greater protection for children's rights, secures greater and more equal access to schools for all students, and a more positive role for education in a society moving away from conflict;
- Develop approaches that maximise the potential of education to address the disadvantage caused by conflict - securing the rights of children to equal access to, and equality of opportunity in, education and proactive and targeted investment in children who have suffered particular disadvantage during the conflict.

From a legal perspective, it is also important for a state enduring or moving away from an emergency situation that measures are adopted to ensure that children's rights are placed on a secure constitutional footing, including in peace agreements.

Enshrining the right to education, and full observance of relevant CRC principles and provisions, into domestic law is also important to prevent the politicisation of education either during or after conflict as discussed above. Such instruments should incorporate a commitment to ring-fence the national education budget to prevent the diversion of funds allocated to education; this is critical to safeguard the child's right to education into the future including in the event of further conflict. In Northern Ireland, this represents a strong argument in favour of enshrining children's rights in the Bill of Rights currently being drafted pursuant to the Good Friday/Belfast Agreement.

The Committee on the Rights of the Child has established that information, advocacy and legal representation are essential to ensure the effective vindication of children's rights (Article 42 CRC; Committee on the Rights of the Child, 2003: 24). These rights are especially critical during emergency situations and peace-building and should be given statutory expression to secure their protection. Resources should also be invested in the delivery of independent advocacy services, including but not confined to the statutory role of Commissioner or Ombudsman for Children.

2. Content and quality of education provided for children in emergency situations

It is vital that the content and quality of education provided to children in emergency situations or in societies moving away from conflict comply fully with the minimum standards established *inter alia* by Article 29 of the CRC and other CRC provisions. To this end, particular regard must be given to developing a curriculum based on children's rights standards, including human rights education, information on children's rights and available remedies for breaches of their rights. The curriculum should also be inculcated with values of mutual understanding, equality and equality of opportunity, and the importance of appreciating difference and diversity. These principles and values should be actively discussed and promoted in the context of the conflict and generally.

Rather than ignore the conflict that may dictate events in young people's communities, the curriculum should address the political, social and historical context of the conflict, encouraging students to understand and discuss key events and the influence of these events on people's lives (Connolly and Healy, 2004). History teaching on the conflict and its causes should be integrated into the school curriculum and delivered in an inclusive and impartial manner. Resources (time, teaching materials and teacher training) should be made available to make this a reality, and young people should be facilitated to participate in the design and teaching of this curriculum.

The content of children's education during and after conflict needs to reflect a set of values not only for children, but for society as a whole as it moves past an emergency situation or conflict. The importance of including these elements in all stages of the school curriculum was highlighted by the Committee on the Rights of the Child in its first General Comment on the Aims of Education (paras 15-16). Here, the Committee stressed the need to maximise the role of the media and the right to access information conducive to the child's welfare in this process (Article 17). It is important in this context that the requirements of the Convention are met by ensuring that children's

education is aimed at the fulfilment of children's capacities, potential and talents under Article 29.

In addition to matters of curriculum, it is also crucial in emergency and post-emergency situations that attention is paid to the ethos that prevails in the school environment. During conflict, how children are treated will leave a strong impression on how they should treat others. In light of the attitudes and values that children form during their early years in their communities (Connolly and Healy, 2004), which can flow over into the school, it is important that school is a place where positive values based on respect for human rights are reinforced and where hatred, intolerance, racism and discrimination are challenged. This requires leadership by Government in the incorporation of such commitments into policy, and teachers who must be prepared to consistently challenge sectarian, racist, sexist or other derogatory statements. Schools should draft and implement strong policies defining what behaviour is unacceptable in this context, and outlining the sanctions that apply where standards are infringed. These policies should be designed with full involvement of children and young people themselves and implemented in a consistent, fair and timely manner.

For societies emerging from conflict, it is vital that schools treat children in a way that reinforces respect for their rights and for the rights of others. In line with Article 12, respect for the views of children should be integrated into the running of the school, with children being given a say in all decisions that affect them. Where their voices are heard through a representative group, this must be selected through a democratic process with care taken to ensure that all age and minority groups are represented. Ensuring children's voices are heard in school is not only essential in meeting the obligations of Article 12. Children's participation in school decision-making shows them the importance of listening to and respecting the views of others; it encourages their participation and demonstrates to children the values of active citizenship, inclusion and responsibility. In this way, implementing children's rights in schools helps to teach children the importance of democratic values, which it is especially important to reinforce during and after an emergency situation. The experience in Northern Ireland is that young people want more information on politics, and want to engage in the discussion of political issues in schools (Electoral Commission, 2006: 64). This is an important means to encourage young people's participation in political life as a means of influencing decisions that affect them. Similarly, giving children responsibility for decision-making will help them learn the skills of mediating between different and perhaps extreme viewpoints, while teaching them how to reach a shared consensus based on democratic values.

Conclusion

However grave the emergency or violent the conflict, the child's right to education remains equally important in providing the individual child with stability and securing a more peaceful, democratic and secure society for the future. But it is also important to the protection and promotion of children's rights in education, as a goal in its own right. The challenges of securing education rights to children during conflict are clear, given the inextricable relationship between schools and their communities and the extent to which conflict, sectarian attitudes, intolerance and hatred can be strengthened rather than diluted at the school gates or when decisions on matters of education policy are being made. Entrenching common, rights-based values is thus vital to protect children's rights in schools during and post-conflict, and to ensure that

education plays a positive role in peace-building. It is vital also to use the potential 'window for change' that exists following a political settlement to address deep-rooted problems regarding the protection of children's rights in schools. Finally, it is essential during and post-conflict to consolidate rights-based approaches to education in law, policy and all decision-making to ensure that rather than breaching children's rights, the adversity of conflict should be used to strengthen their protection for the future.

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