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Nick Mathison,
Chairperson, Committee for Education
Parliament Buildings
Belfast BT4 3ST

Dear Mr Mathison,

Misinformation on children's rights

I write to express concern that the Committee for Education has heard several inaccurate claims about children's rights from witnesses. The extent, repetition and welcome given to these claims by some members of the Committee gives us grave concern that misinformation around children's rights and RSE is being allowed to prevail.

Since the return of the NI Assembly last year, the Committee has been keen to tackle misinformation around RSE. We were involved – along with other Christian groups – in correcting inaccurate claims made at the time of the previous consultation. I hope you will agree that, wherever misinformation arises, it is important to rebut it clearly.

This is not merely a policy disagreement between us and other stakeholders. The NI Assembly has obligations in relation to human rights, and it would be deeply problematic if the Committee made recommendations on the basis of incorrect information about those rights.

The list below is not exhaustive, but indicative of the extent to which incorrect claims have been raised.

Yours sincerely,

James Kennedy

(NI Policy Officer, The Christian Institute)

- On 11 December 2024, Alliance for Choice claimed that “The UNCRC specifically says that there should not be an opt-out”. This is not mentioned anywhere in the UNCRC. A direct reading of UNCRC would certainly not lead to this position.

Presumably Alliance for Choice meant to refer to suggestions made in a 2023 Report from the Committee on the Rights of the Child (a UN body which monitors UNCRC implementation, which is for obvious reasons not abbreviated to UNCRC), which is not binding on Members States. That same Report notably contradicts itself in calling for a right of withdrawal for religious education (the European Court of Human Rights has made it clear that the same requirements of impartiality and regard for parents’ beliefs apply to RSE and RE).¹ The Report makes a number of political recommendations which, though in some cases may be very worthy, do not directly correlate with ‘children’s rights’ as defined in the UNCRC. It is quite wrong to speak of that Committee’s recommendations as synonymous with children’s legal rights.

- Alliance for Choice claimed in its opening statement that “RSE also engages the rights of children and young people under UNCRC, including *the right to access information, in Article 17, the right to experience the highest attainable health, and access to health facilities, including preventative healthcare, family planning and education services, Article 24*”.

Article 17 requires that states: “recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health”.

This ‘right to information’ is not about requiring children to be taught about the legal options open to them, against a backdrop of those who argue against using those options.² Instead, Article 17 requires that the State *does not* impose only its own view on children, but ensures access to a diversity of sources including those focused on “social spiritual and moral well-being”.

It also requires that this is provided “in accordance with the spirit of Article 29”. Article 29 includes, among other provisions, “the development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own”.

Similarly, Alliance for Choice’s summary of Article 24 does not reflect the text of the UNCRC. Article 24 requires states to: “develop preventive health care, guidance for parents and family planning education and services”. It asks the state to provide ‘family planning education’ for the benefit *of* children; not to provide it *to* children.

¹ *Guide on Article 2 of Protocol No. 1 to the European Convention on Human Rights*, European Court of Human Rights, paragraph 67

² Alliance for Choice, for instance, stated that religious groups’ opposition to abortion or contraception is an attempt to “breach people’s access to the full range of information”, whereas schools should teach based on “human rights frameworks and obligations” such as CEDAW, which “are not opinions”. Faith groups, they said, “have their own churches and institutions where they can teach whatever they want”.

- On 15 January 2025, the Women’s Resource and Development Agency (WRDA) claimed that: “In the text of the Article [UNCRC Article 5], parents or carers have responsibility to provide guidance to their child so that they fully enjoy their rights.” They suggested this means parents should be unable to prevent their child attending RSE classes under any circumstances. This misquotation of Article 5 is, again, far removed from both its text and intention.

Article 5 rather states: “States Parties shall respect the responsibilities, rights and duties of parents ... to provide ... appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention”.

Whereas WRDA claims Article 5 is placing requirements on parents, it is actually delimiting the power of the State. Article 5 emphasises that the State must respect the role of parents. If the State was to assert that it is protecting children’s rights by preventing a parent from exercising their own judgement, it would be a direct violation of the UNCRC (and of course ECHR Article 2 Protocol 1 and existing education law in Northern Ireland³).

- On 13 November 2024, in her opening statement to the Committee, Professor Maria Lohan gave a definition of ‘comprehensive’ and said: “As we all know, comprehensive sexuality education is the human right of the child, as defined by the UN Convention on the Rights of the Child (UNCRC).”

Yet the UNCRC does not in any place refer specifically to RSE, ‘sexuality education’ or any other such term, nor does it use the word ‘comprehensive’ to describe any form of education.

Prof. Lohan also claimed that “human rights standards state that the curricula should be developed with young people’s input, including the co-design of services and programmes with young people”. Yet this does not reflect any human rights documents to which the UK is a signatory. The UNCRC does include a right for children to “express” their views “freely in all matters affecting the child ... in particular ... in any judicial and administrative proceedings affecting the child” (Article 12).

This means the child’s viewpoint should be heard in, for example, a court setting, where the judgement will impact them individually. It does not require that children input directly into policy development or the design of curricula. Otherwise there would be a legal obligation that every subject taught in schools is co-written by pupils. While in many instances engaging children in these processes may be positive, it is clearly not a human right.

- On 11 September 2024, the Northern Ireland Human Rights Commission, discussing the ECHR and the Committee on the Rights of the Child, claimed: “In Wales, the High Court determined that there should not be an opt-out.”

This is not what the Court case in Wales determined. The High Court determined that there was no *automatic* right to withdrawal under the ECHR, and that no such right could be asserted under the specific circumstances laid before it. It did not say that the Welsh

³ The Education and Libraries (Northern Ireland) Order 1986, article 44

Government should not offer an opt-out, rather that it did not in that instance have a legal obligation to do so.⁴

- Several witnesses have described ‘children’s rights’ as “an evolving area of jurisprudence” or “an evolving area of law”. Yet:
 - ‘Children’s rights’ are predominantly, in the UK, not an ‘area of law’ since many of the relevant provisions have never been incorporated.
 - The relevant parts of the documents under discussion (ECHR and UNCRC) have not changed since being ratified by the UK (ECHR in 1951, UNCRC in 1991).
 - There is no likelihood of change in the near future.

So the phrase “an evolving area of law” cannot be correct.

There are technical considerations to which witnesses may have intended to refer: around the implementation of ECHR and the manner in which the courts may interpret the obligations of the state in relation to UNCRC (e.g. some mentioned the margin of appreciation). But the point of the original documents is to set in stone boundaries around children’s rights and thus to prevent legal drift. That is to say, while some people would like the documents to enable the state to take a more prescriptive stance against the input of parents, this is no more than wishful thinking. ‘Children’s rights’, insofar as we mean the rights to which the UK and NI are signatories, is *not* an evolving category.

Setting up a concept of children’s rights in conflict with parents’ rights is unhelpful and, again, not reflective of the drafting of the treaties to which the UK is a signatory, which were written to protect children from state overreach.

⁴ *Isherwood v. Welsh Ministers*, (2022) EWHC 3331, see: <https://www.judiciary.uk/wp-content/uploads/2022/12/Isherwood-v-Welsh-Ministers-Judgment-221222.pdf>