

Speech by Bruce Adamson, Children and Young People's Commissioner Scotland to the 75th national sitting of the Scottish Youth Parliament, on United Nations Charter Day 26 June 2021.

Delivered online due to Covid 19 restrictions.

Thank you, Members of the Scottish Youth Parliament, it is a great honour to be invited to speak to you at your 75th national sitting.

My name is Bruce and I have the best job in the world as Children and Young People's Commissioner. My role is to promote and safeguard the rights of everyone up to the age of 18, and to 21 for care experienced young people, recognising the additional obligations that we have to them. I usually get to spend my time travelling around Scotland meeting children and young people, hearing about the issues that affect them, and working with them to make things better. The role that you all do as Members of the Scottish Youth Parliament ('SYP') is right at the heart of that – you are all Human Rights Defenders.

I'm a middle aged man with short dark hair, and a short beard which has receded into grey. I'm wearing a dark suit with a red tie, which is the colour of the logo of the Commissioner's office. I would often be wearing casual clothes for working with children and young people, but I have dressed for the formality of the occasion today.

I'm joining you from my house, so behind me on the wall are some brightly coloured pictures drawn by children, a ukulele and some lego minifigures, and a bookcase full of legal texts about children's rights.

The Children and Young People's Commissioner was created in 2003 by the Scottish Parliament, following campaigning by civil society organisations, including SYP to safeguard and promote the rights of children and young people. I am the third Commissioner, I was appointed in 2017 for a period of 6 years.

When I became Commissioner in 2017, I travelled across Scotland and asked children and young people what they wanted from their Commissioner. They told me that they wanted someone who would be kind and friendly and accessible to them, but who would also be a brave champion for their rights. In Shetland they told me that they wanted me to be "savage" in holding those in power to account, perhaps in tribute to the Viking heritage there. To use the power of the office to deliver real change. Trying to fulfil that instruction is a huge honour.

The best part of the role is that I get to work with amazing young people like you. You are my strongest allies as I pursue my mandate to promote and safeguard the rights of children and young people in Scotland. You, in your role of representing the young people of Scotland, are Human Rights Defenders.

The Scottish Youth Parliament is fundamentally a rights based organisation, and I think it is fitting that this 75th national sitting falls only a few months after the UN's 75th anniversary year in 2020. And even more fitting that in its 75th year the UN focussed its annual human rights day on youth.

Today – 26 June, is United Nations Charter Day – it is the 76th anniversary of the signing of the UN Charter in 1945.

It is hard to imagine a time before the United Nations. I know that many of you here were born after the creation of the Scottish Parliament (which I know that SYP is older than by one day).

But I would ask you to cast your imaginations back to in the mid 1940s, the world was coming together, after the horrors of the early 20th Century - to put in place the foundation for what would become the international human rights framework.

I have a poster of the UN Charter on the wall in my office, where the words are written into the shape of a dove. (It was created by the United Nations Association and you can find online here: <https://una.org.uk/news/commemorative-united-nations-charter-posters-now-available>)

It sits just above my desk. Although due to Covid 19 I have very seldom been in my office.

The Preamble to the UN Charter says:

“WE THE PEOPLES OF THE UNITED NATIONS determined to
save succeeding generations from the scourge of war,
reaffirm faith in fundamental human rights, in the dignity and worth of the human person
commit to establishing conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and
to promote social progress and better standards of life in larger freedom,
and for these ends
to employ international machinery for the promotion of the economic and social advancement of all peoples, ...”

So – it set the foundation for all of the countries of the world to come together and agree what the international laws on human rights should be. Based on a strong mandate from WE THE PEOPLES.

On the opposite wall of my office, is a huge glass wall, where I ask children and young people who visit my office to sign their names or write a message, or draw a picture. While I am appointed by Her Majesty the Queen following nomination from the Scottish Parliament and I have beautifully framed warrant from the Queen in my office, I consider that it is children and young people who my real mandate comes from. They; You; are WE THE PEOPLE.

A few years after the UN Charter, in 1948, people from all across the world created the Universal Declaration of Human Rights, which was the first real international framework of rights.

Over the next 70 plus years we created the legal treaties that protect all of our rights, covering everything from the right to life, being protected from torture and ill treatment, equality before the law and freedom of expression, rights to social security and an adequate standard of living, education, healthcare and everything important to human dignity.

These aren't things imposed upon us – these are commitments, promises, that we the people – through our elected representatives have made. When a country chooses to sign a treaty – it makes a public promise, in front of the whole world – to ensure that people's rights are going to be respected, protected and fulfilled.

I know that I am preaching to the choir when I say that the United Nations Convention on the Rights of the Child ('UNCRC') is special.

There are a broad array of human rights instruments which protect the rights of children but, the UNCRC is the first legally binding international instrument to fully incorporate civil, cultural, economic, political, and social rights, as well as aspects of humanitarian law for everyone up to age 18. I know that some of you are over 18 and the mandate of the SYP covers young adults – your rights are important too... but childhood is a time where additional rights apply.

The UNCRC is an international legal document signed by every country in the world (apart from one) that talks about the need for children to grow up in a family environment of happiness, love and understanding. Think about that for a moment – family environment. Happiness. Love. Understanding. Written into a piece of international law. It's in the preamble, the introduction, but the Vienna Convention of the Law on Treaties say that we need to include the preamble in how we interpret any treaty.

The UNCRC builds on the Charter of the United Nations (1945) which recognised that the inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of freedom, justice, peace and social progress. The UNCRC breathes life into the Universal Declaration of Human Rights (1948) which proclaimed that childhood is entitled to special care and assistance.

The UNCRC is the most rapidly and widely ratified international human rights treaty in history. It changed the way children are viewed and treated in international legal terms. It proclaims children's status as human beings with a distinct set of rights, not just as passive objects of care and charity.

The rights contained in the 54 articles of the UNCRC are universal, interdependent and interrelated. The articles cover all aspects of a child's life and explain how those in power must work together to make sure all children and young people can enjoy all their rights.

Rights like:

An adequate standard of living – safe warm home, nutritious food
The highest attainable standard of health
An education which develops children to their fullest potential
Extra care and protection for disabled children and care experienced children

Importantly it requires children's views to be part of all decision making, and that those decisions should be made in children's best interests. AND it requires the state to use all available resources to the maximum extent possible to ensure rights are fulfilled.

Children don't have the same political power as adults, they don't have the same economic power to influence or lobby. Our systems of redress are designed by adults for adults and can be difficult to access for children. It is incumbent upon all of those in power to make special efforts to ensure that children's rights are respected, protected and fulfilled.

As part of the celebrations of the 30th anniversary of the UNCRC in 2019 we asked children across Scotland to describe why human rights were important to them in just 7 words. They said things like:

My rights give me power, freedom, courage.
My rights matter. Your rights matter too!
Be bold, be brave, speak out.

And one of my favourites:
Humans have rights, dinosaurs don't, they died.

Which is actually a topic of conversation that comes up quite often – dinosaurs, aliens, people in ancient civilisations – did they have human rights? Do pets? Perhaps I'll leave those discussions for another time.

One of the 7 word stories I think a lot about is:

My rights are my armour to me.

As we approach the 32nd anniversary of the UNCRC we are beset by a global pandemic which has disproportionately affected children. Children's rights to education, health, family life and to gather with friends have all been infringed by this pandemic. Those whose rights were already most at risk are suffering most: disabled children, care-experienced children, young carers, those experiencing poverty. More children are now living in poverty, suffering poor mental health, and dealing with bereavement.

This is a human rights crisis. School isn't just about lessons, the purpose of education is to develop children to their fullest potential and school communities aren't just about learning, they are places of support and places of safety.

Closing schools and nurseries has been necessary to protect life and public health, but more needs to be done to protect children's rights when they can't access school-based support and community-based support.

The children and young people I speak to understand the important role that they are playing to protect life and public health – and have been doing an incredible job. That resilience, creativity and self-sacrifice is something we should celebrate. There have been some positives. For many being at home more with families and community solidarity have been something to celebrate. Children and young people have developed new skills, especially with digital technology.

But we must do more to protect their rights and recognise the important role that they need to play in decision making. It's important that restrictions are kept under review to make sure that they continue to be necessary, proportionate and for the most limited time possible.

Technological change is bringing challenges as well as opportunities for human rights. Across Europe we have seen an increase in retrogressive attacks on human rights.

It is great to see SYP at the heart of focusing attentions on these issues. The motions that you have discussed this session, on poverty, on mental health, on conflict and rights abuses in other parts of the world – these are all important.

Young people are leading climate justice, anti-racism and anti-misogyny movements, raising issues like poverty and mental health which are highlighting the failures in our current approach. Working with the international human rights mechanisms and improving our domestic legal structures to protect the human rights of children will be essential in meeting those challenges.

The unanimous passing of the bill to incorporate the UNCRC into Scots law by the Scottish Parliament earlier this year was the culmination of decades of campaigning by children, young people and the adults who work and care for them. The role of the SYP in that was absolutely key. A few years ago there seemed little prospect of incorporation happening in Scotland. When I became Commissioner in 2017 the Scottish Government was opposed to bringing forward legislation.

Without your fierce campaigning, including *Right Here, Right Now* and all the vital contributions from MSYPs, incorporation would not have been achieved. I think incorporation of the UNCRC highlighted the many strengths of SYP - campaigning, giving evidence, engaging the media, amplifying the voices of young people, supporting children to have their voices heard and galvanising MSPs on important amendments on things like early commencement. Incorporation simply would not have happened without you.

The UNCRC (Incorporation) (Scotland) Bill is a world-leading piece of legislation to protect children's rights. AND that incredible leadership you have shown has secured commitments from the Scottish Government to go further and incorporate four other treaties:

- the International Covenant on Economic, Social and Cultural Rights

- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- the Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- the Convention on the Rights of Persons with Disabilities (CRPD)

and the right to a healthy environment, rights for older people, and new rights on access to justice.

This was unimaginable 4 years ago when I started this role. Incorporation has been a lifetimes work for me and the progress we are making is incredible.

You may be aware that the UK Government has referred the UNCRC Incorporation (Scotland) Bill to the Supreme Court. On Monday and Tuesday coming the Supreme Court will hear the UK Government's challenge to a couple of areas of the Bill which the UK Law Officers consider to be outwith the powers of the Scottish Parliament.

It may mean that the Bill needs to be amended, but given the unanimous support of the Scottish Parliament to a maximalist approach to full and direct incorporation of the UNCRC, it **will** happen – and soon. In fact we secured amendments at Stage 3 of the bill to ensure that early commencement will be possible once the Bill receives Royal Assent.

Incorporating the UNCRC into Scots law is the most important step we can take for children and it is vital that the challenge by the UK Government on specific parts of the Bill does not create unnecessary delay to the much-needed rights protection it will provide.

The Bill will create a framework for culture change, but importantly it also provides accountability – particularly on economic, social and cultural rights, which are largely absent from our existing human rights laws.

We need to continue to focus on working together to implement the Bill. I'm confident the legal challenge will be resolved swiftly and that the Bill will be commenced as soon as possible afterwards, so that children in Scotland, who have already waited an extraordinary amount of time, can have their rights fully protected in law.

So don't be disheartened. And remember to celebrate the amazing achievements made by SYP in this momentous, landmark moment for children's rights in Scotland. This is a massive step forward and hopefully will set a precedent for bringing other human rights treaties into our domestic law.

But we cannot be complacent.

The pandemic has highlighted many areas where children and young people's rights aren't realised. As you set out in your Scottish Youth Parliament Manifesto, you say children and young people's rights should be at the forefront of decisions, but all too often this hasn't been the case – as the work both SYP and our office (and others such as SQA Where's Our Say) have done over SQA exams has shown. This week the Scottish Government has announced big changes in the way they manage

education – with SQA being replaced – but we will need to hold them to account and make sure that young people are part of decision making.

Currently, there is a democratic deficit. Children and young people don't have the same political power as adults, nor do they have the same economic power to influence or lobby, and systems of redress are difficult to access. It is thus incumbent upon all of those in power to make special efforts to ensure that children's voices are heard in all decisions that affect them, and this requires a change in the way that decisions are made.

It is crucial that children and young people are at the heart of decision making. This cannot be tokenistic; your views have to hold weight and be taken seriously. By incorporating the UNCRC, Article 12, the right to participate in decision-making, will help this to become a reality.

Although we've come a long way in Scotland in terms of recognising children as rights holders, we've also had a sharp wake up call, as a result of the Covid-19 pandemic, that culture change takes time to fully embed and systems under pressure can revert back to their comfort zones. Too many times during the pandemic we saw a reversion to paternalistic approaches to children and young people which failed to recognise them as rights holders.

Scotland has world leading youth led organisations like SYP and incredible expertise in children's participation that SQA and the Scottish Government could have paid much more attention to.

Youth Parliaments are a fantastic way for young people to be represented, especially if like SYP, members of the youth parliament have to consult with their constituents before sittings and voting on motions, as well as taking part in nation-wide consultation to develop its 5-year manifesto.

This ensures that you have a mandate that accurately reflects the young people of Scotland as a whole, and not just those young people who are MSYPs. Having MSYPs who represent specific voluntary organisations means that specific groups of young people, whose voices are often not heard, can be heard and represented.

However, this is still not enough; not all decision makers take children and young people seriously and not every young person can be represented through a Youth Parliament. All too often people and organisations view listening to young people as optional, or just a tick-box exercise and rarely take their comments on board. This is why examples of best practice must be shared and implemented when it comes to children and young people's involvement in decision making.

There must be alternatives, particularly for seldom heard young people, or young people with additional support needs who may struggle to go through formal channels of representation. Their voices and opinions still matter and should still be heard and taken into account. A formal meeting with MSPs doesn't work for all children and young people, and alternatives must be utilised, such as getting children's opinions through art or play.

We need to build on these methods, and thus ensure the efficiency and legitimacy of decision making through children's participation in it.

It's important that the responsibility to adapt is on adults, not on children and young people. Those in power should be the ones asked to step outside their comfort zones.

Outside of formal decision-making structures, children and young people have demonstrated their leadership on a global level on issues such as climate change, food poverty and exam cancellation, showing the power of young people as human rights defenders.

Which brings me to your role...

Democracy, Rights, Inclusion and Diversity, Political Impartiality – those are the values that underpin the amazing work of MSYPs.

I have been hugely privileged to work with some of you, and I have seen you demonstrate all of these characteristics. I won't name check you all, but I want to thank you.

MSYPs have helped me with my role to promote and protect your rights, some of you are young advisers who have been right at the heart of my work, from developing my strategic planning process, running events, giving evidence to Parliament, speaking to the media and at events at the European and UN level, helping develop new human rights standards on things like rights in the digital world, campaigning alongside me, and so much more.

Some of you came to my events, I have been to some of yours, others have been at committees, conferences or meetings with me – passionately defending young people's rights. Others of you I feel that I know because of your amazing social media presence. MSYPs continued work as Human Rights Defenders is truly inspirational.

It has been a pleasure to work alongside your incredible work as human rights defenders, and human rights leaders. Your work over recent years has been incredible:

Your new manifesto for 2016 – 2021, based on the voices of so many young people- has many areas of commonality with the strategic priorities of my office, to name a few, Covid 19, education, mental health, social security,

You were a key part of the campaign to support the change in the law that made it illegal to physically assault a child, which MSPs passed into law in 2019.

MSYPs campaign to stop the use of anti-loitering mosquito devices led to a complete ban on their use by all Scottish local authorities.

Your calls for music tuition to be kept free of charge led to the Scottish Government and COSLA working together to find a solution .

Your campaigns – **Marriage Equality, Scottish Living Wage, Votes at 16, Care.Fair.Share** – ensure young carers treated fairly by society and government policies, Educational Maintenance Allowance.

Make seldom groups heard: <https://syp.org.uk/cabinet-blog-make-listening-to-seldom-heard-groups-a-priority/> - *“Disabled young people, young people of colour, young carers, young parents and other seldom heard groups have all bore the brunt of this pandemic, yet there are few targeted approaches to engage with them as Scotland begins to recover from the virus.”* recognises what I discussed above, that we must ensure everyone is represented, and in particular adults must ensure they come out of their comfort zones to make that happen.

I'm hugely impressed by your work on the two biggest human rights issues I encountered pre pandemic, which have been exacerbated by COVID-19:

Poverty: See It Change It to combat stigma and ensure it is recognised as a right's based issue across Scotland.

Mental Health: Our Minds Our Future – project giving young people the opportunity to influence the way mental health services are designed and delivered across the UK. Recognising the ever increasing use of digital technology:

Mind Yer Time – digital resource covers topics from body positivity to online bullying: providing guidance for CYP to approach social media in a way that is beneficial for their mental and physical health.

That amazing work of the SYP links closely with the work we have been doing at the European Network of Ombudspersons for Children “ENOC”. I have the privilege of being Chair of ENOC brings together 43 Commissioners and Ombuds offices from across the Council of Europe area. In recent years we have been focussing on issues such as inclusive education, mental health, rights in the digital world – leading to a new General Comment from the UN Committee on the rights of the Child, and developing new standards on Children Rights Impact Assessments. Over the last year our focus has been on Covid, and I know it will be of interest to you to hear that we have recently chosen to focus on climate justice as our next priority theme.

We are also part of a global community, my office has recently been in conversation with Commissioners in Uzbekistan, Malaysia, Chile, Argentina – all keen to hear about the work here in Scotland,

And there is also the important role that SYP play in reporting to the UN Committee on the Rights of the Child to hold Scotland to account in terms of its compliance with the UNCRC..

So, you are not just human rights defenders in Scotland, but internationally.

Congratulations on this 75th national sitting, keep doing the amazing human rights defending that you are doing. On this United Nations Charter Day know that “we the people”,

The last couple of years have been tough ones. The human rights challenges have often felt overwhelming, so I’ll give the last word, well the last 7 words, to 7 year old Cayden whose 7 word story is:

Rights matter. We matter. Don't lose hope.