



## Submission to United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association

May 2021

We welcome the opportunity to respond to the Special Rapporteur's call for inputs on the enjoyment of the rights to freedom of peaceful assembly and association to advance climate justice. This submission focuses on the challenges faced by children and young people to enjoy these rights while advancing climate justice in Scotland and draws on our publication on [children human rights defenders \(CHRDs\)](#).

### Children and young people as climate justice activists and legal protections

Climate change inherently affects [children's human rights](#), threatening their present and future. Climate justice intersects with multiple priority human rights issues for children in Scotland, including poverty, food security, health including mental health, education, and pandemic recovery.

In recent years, children and young people have led climate justice movements in the streets, online, and in court. In particular, the [global climate school strikes](#) have transformed the global dialogue on effective and equitable climate action. In their fight for climate justice, young climate activists exercise their peaceful assembly and association rights alongside their rights to expression, participation, and information - every day. Yet, they often face reprisals and restrictions on their human rights, partly based on age.

Children who are climate activists are also human rights defenders and entitled to the same protections as adults. A human rights defender (HRD) is anyone who [acts to protect or promote their human rights or the rights of others](#). HRDs are protected under international law, and States – including the United Kingdom (UK) – that have signed the [UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#) must protect HRDs. Article 5 of the Declaration protects peaceful assembly and association.

The international legal framework provides strong protections for CHRDs. The [United Nations Convention on the Rights of the Child](#) (UNCRC) - the most widely ratified international human rights treaty – enshrines the freedom of peaceful assembly and association (Article 15), as do other core international human rights treaties.<sup>1</sup> States must take all necessary measures to ensure the rights, protection, and safety of all CHRDs when they exercise their rights to peaceful assembly and association – both online and offline – and create an enabling environment.

The [UN Committee on the Rights of the Child](#) has recognised children as '[promoters and defenders of children's rights](#)', required States to ensure that [adequate laws and other](#)

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<sup>1</sup> Including, *inter alia*, International Covenant on Civil and Political Rights, arts. 21-22; International Convention on the Elimination of All Forms of Racial Discrimination, arts. 4, 5(ix); Convention on the Elimination of All Forms of Discrimination against Women, art. 7(c); Convention on the Rights of Persons with Disabilities, art. 29; and European Convention on Human Rights, art. 11.

[safeguards exist to protect and promote the work of human rights defenders](#) and highlighted the need to '[protect adolescent rights defenders, particularly girls, who often face gender-specific threats and violence](#)'. The role of CHRDs has been more broadly recognised by [human rights bodies and experts](#). Further information on CHRDs can be found in the Child Rights Connect [Implementation Guide](#).

The Committee on the Rights of the Child specifically recognises [the importance of CHRDs](#) and calls on States to protect them to act and participate in matters affecting them and to protect them from violence and other reprisals. CHRDs role has been recognised more widely on a global level, including by [the UN Special Rapporteur on the situation of human rights defenders](#), the UN [Special Rapporteur on Human Rights and the Environment](#), the UN Human Rights Council,<sup>2</sup> and the [Office of the UN High Commissioner for Human Rights](#), among others.

Despite the strong legal and policy protections, CHRDs continue to face barriers to the full realization of their rights on an equal basis. They should not face discriminatory attacks, reprisals for peaceful protest, nor be silenced, discouraged, or punished. CHRDs are rights-holders, partners, and key activists, and should have the same recognition afforded to adults. They should be engaged meaningfully in decisions and processes affecting them, which in turn provides crucial support to their climate justice advocacy.

### **Child and youth-led climate justice activism in Scotland and the UK**

Children and young people have protested – both online and offline – against climate inaction in Scotland and the UK in recent years. These protests have been collective and individual and involved various initiatives, groups, and movements.<sup>3</sup> Starting in 2018 and prior to the pandemic, children nationwide staged in-person "[school strikes](#)," walking out of primary and secondary schools to call for climate action. In doing so, they exercised their peaceful assembly and association rights, protesting in the streets and in front of Parliament and other public buildings. They have used social media for mobilisation, promoting their protests and calls, and awareness-raising of the climate crisis. Peaceful assembly and association have been central to the success of their advocacy and to their transformation of the climate change dialogue.

The Covid-19 pandemic posed new challenges to CHRDs in the exercising of their peaceful assembly and association rights. As governments enacted [emergency measures to protect public health](#), including lockdowns, physical distancing requirements, bans on non-essential movement and travel, and suspension of meetings and events, children faced some of the greatest restrictions on peaceful assembly and association ever. In Scotland, some [shifted their protests online](#). When Covid-19 case numbers were lower and regulations eased, children protested individually or in small groups respecting distancing requirements.

The shift to online protests has led CHRDs to exercise their rights to peaceful assembly and association in a new setting, which poses different challenges. Digital activism has included

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<sup>2</sup> UN Human Rights Council resolutions [40/11](#), [45/30](#) and [46/7](#).

<sup>3</sup> These include, *inter alia*, the Scottish Youth Climate Strikes, [Fridays for Future Scotland](#), the [Scottish Youth Parliament](#), the [Scottish Children's Parliament](#), the [UK Student Climate Network](#), the [UK Youth Climate Coalition](#), and the [Choked-Up Campaign](#).

protesting by sharing photos of themselves holding placards on social media, participation in online webinars and events, and increased digital dissemination of messages and campaigns. It has ensured that child-led protests have continued, including in times of crisis. However, digital activism involves additional risks.<sup>4</sup>

Examples of children's initiatives to advance climate justice in Scotland include the [Children's Parliament's](#) work, [Children's Climate Change investigation for Scotland's Climate Assembly](#),<sup>5</sup> Young Friends of the Earth Scotland's [Just and Green Recovery Campaign](#),<sup>6</sup> [Scottish Youth Parliament's work](#),<sup>7</sup> the [2050 Climate Group](#)<sup>8</sup> and activity from [YouthLink Scotland](#).<sup>9</sup>

## **Challenges, threats, and barriers to peaceful assembly and association rights for CHRDs**

Children have the same right to peacefully protest as adults, yet they face particular barriers, challenges, and impacts to peaceful assembly and association rights when conducting climate activism.

At the time of the 2019 school strikes, the Commissioner [received reports](#) about school pupils being threatened with detention or other punishments for going on climate strike. Then-UK Prime Minister Theresa May also [criticised young people](#) for causing disruption, stating they needed to be in school to become the future professionals who can help solve climate change. Our office responded by writing to education leaders urging them to support children and young people who go on climate strike and we issued supportive public messaging.

Human rights defenders should not face reprisals for peaceful protest – no matter their age. Detention after school, deducting rewards or grades, and suggesting that engaging in peaceful protest will negatively affect a child's future, amount to punishment. Language used to shame, pressure or influence children is relative. A school pupil can view having a reward or grade revoked or facing detention as very distressing. All restrictions, including those enacted on emergency grounds such as related to the Covid-19 pandemic, must be proportionate.

A group of young people advising the Commissioner on CHRDs in 2019 [made recommendations](#) and described adults' attitudes and discourse around the climate strikes as "scare-mongering" and noted that the attitudes of many teachers and adults need to change for them to be empowered.

The power imbalance between adults as duty-bearers and children as rights-holders can significantly affect CHRDs ability to mobilise and defend rights. CHRDs are dependent on duty-bearers in many settings – at home, school, wider community, and on the international stage

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<sup>4</sup> See more below.

<sup>5</sup> An interactive digital survey to explore children's and young people's views on what should happen in Scotland to tackle climate change, with further analysis and exploration of these themes by 12 members.

<sup>6</sup> This highlights young people's voices through an 80+ group coalition, including through workshops and blogging.

<sup>7</sup> Including the *Pack it up, Pack it in* campaign focused on reducing pollution levels which contribute to climate change through reducing single-use packaging and waste, and improving recycling in Scotland.

<sup>8</sup> A youth-run and volunteer-led organisation to empower young people to take climate action towards a just and sustainable society through projects such as a Leaders Network, a young Leader Development Programme, and policy engagement.

<sup>9</sup> Including work to support Scotland's youth to engage with the upcoming COP-26 negotiations.

– and can have little power to challenge them or confidence to ask for help. The climate strikes, which have seen adults join child-led protests and recognise CHRDs advocacy, have shown how this could change. Governments and international agencies now need to effect systemic change to ensure this can be achieved.<sup>10</sup> Awareness of unequal power structures – including those that perpetuate discrimination against the most marginalised groups – can prevent the reinforcement of such imbalances and help power-holders understand how to best protect and support CHRDs.

CHRDs can use the media to demand and achieve change. However, such public exposure can include risks. The media must protect CHRDs from reprisals. Traditional print and broadcast media must follow clear industry standards applicable in their domestic jurisdiction. In the UK, this includes the [OFCOM Code](#) and the [IPSO Editors' Code of Practice](#).

Social media is central to CHRDs campaigns for climate justice and provide an important platform for CHRDs to organise and take action. However, it is also a space where significant reprisals can take place and they often face online abuse and attack. Governments must ensure that social media companies are properly regulated to keep children safe online, including through legislation that gives companies providing online services a legal responsibility to keep users safe, forcing companies to remove harmful material quickly, and imposing sanctions for non-compliance. In the UK, proposed [Online Safety legislation](#) must meet these standards.

Challenges of the shift to digital activism also include age-restricted or age-based membership of different social media platforms, concerns around protection of the right to privacy in the online context, access to appropriate information, and bullying and reprisals online. Furthermore, children, particularly those affected by poverty or in rural areas, may not have access to digital devices or an internet connection to be able to exercise their peaceful assembly and association rights online.

The UN Committee on the Rights of the Child's [General Comment no. 25 on children's rights in relation to the digital environment](#) provides guidance for protecting and promoting children's rights online. Governments should also implement recommendations from the European Network of Ombudspersons for Children's statement on "[Children's Rights in the Digital Environment](#)" and the [Council of Europe's 2018 Guidelines to respect, protect and fulfil the rights of the child in the digital environment](#).

CHRDs lack safe spaces to mobilise and lead change, both online and offline. Safe spaces should be a standard part of decision-making, which will also help bridge the gap between children and decision-makers. Scotland's [Everyday Heroes Participation Project](#)<sup>11</sup> could be used a model for the creation of safe spaces for young climate activists.

### **Restrictions to public participation of CHRDs in climate decision-making**

Children often face restrictions regarding public participation in climate decision-making due to a lack of meaningful, sustained engagement with them on matters concerning them. They are one of the most marginalised groups from civil society spaces and decision-making in

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<sup>10</sup> See more below.

<sup>11</sup> Children worked with people in power to influence Scotland's Equally Safe Delivery plan (2017-2021).

general, including regarding climate justice. As climate change [inherently affects children's human rights](#), they must be actively involved in all stages of the decision-making process and in designing fair and inclusive climate change legislation and policies. This extends to all children, including those most at risk of being left behind. However, in practice, this is often not the case.

Children have told the Commissioner that when they have been invited to speak at the United Nations or to comment on national law and policy development, it often feels more tokenistic than meaningful. Furthermore, rather than being standard practice, engagement is often dependent on the creation of opportunities by power-holders. Engagement can involve one-off or retrospective consultations. These do not fulfil international obligations nor meet children's expectations to be actively included in public processes concerning them.

In line with UNCRC Article 12, one of the UNCRC's guiding principles, children have a right to participate in decision-making processes relevant to them, in line with their evolving age and maturity. The Committee on the Rights of the Child provides additional guidance in its [General Comment no. 12](#). In its last review of the UK in 2016, the Committee [recommended](#) the establishment of "structures for the active and meaningful participation of children and giv[ing] due weight to their views in designing laws, policies, programmes and services at the local and national levels." The UN Secretary-General's [2020 Call to Action for Human Rights](#) identifies climate justice as a priority and highlights the need to create space for young people's participation, protect CHRDs, and include climate education in curricula.

Participation should be meaningful, tailored, age-appropriate, and accessible, including targeted consultations with children. Several tools exist to support a child rights approach to participation, including the [Council of Europe Child Participation Assessment Tool](#), the [Lundy model of participation](#), and our [7 Golden Rules for Participation](#). Ensuring CHRDs public participation, recognising their role as agents of change, and including their views in legislative and policy design and implementation will be critical to achieving successful climate justice.

### **Measures and actions that States and businesses should take to ensure children and young people's freedom of peaceful assembly and of association in the context of climate action**

States should demonstrate a renewed commitment to uphold CHRDs rights to freedom of peaceful assembly and association. Children should be afforded the same rights as adults to peaceful protest and activism, without fear of reprisal. Therefore, we recommend that States take the following steps:

- Publicly recognise the role of children and young people as human rights defenders;
- Encourage and support children and young people to mobilise and play a central role in climate action initiatives through creating an enabling environment;
- Ensure that the human rights of children are respected, protected and fulfilled and any restrictions on peaceful assembly and association rights are lawful, necessary, proportionate and time-limited, and actively review such restrictions on an ongoing basis;

- Embed human rights, human rights defender education, and environmental education, including the links between children’s human rights and climate change, in the national curriculum at primary and secondary level;
- Protect CHRDs who engage in activism and peaceful protest - both online and offline - in the context of climate action, including from possible violence and reprisals;
- Create safe spaces online and offline for CHRDs to mobilise, share stories, and influence people in power concerning the climate crisis;
- Establish and promote complaints mechanisms for all CHRDs;
- Sign and ratify the Third Optional Protocol to the UNCRC on a complaints procedure;
- Support and empower CHRDs, including through implementing meaningful, ongoing participation in decision-making processes concerning climate change. This includes transforming processes to be more accessible and inclusive, developing child-friendly tools, and disseminating accessible, age-appropriate information about climate change processes and means to engage. Further practical steps include choosing timings that suit children, being honest about what can be delivered, listening to CHRDs calls, and remaining in touch and providing feedback;
- Review consultation processes with children and advocate for international multilateral human rights and environmental institutions to do the same; and
- Ensure children have the necessary digital access to be able to exercise their rights to peaceful assembly and association digitally.

Businesses should:

- Protect and promote children’s human rights in the context of their operations, and ensure they do not violate their peaceful assembly and association rights; and
- Engage meaningfully with children concerning the climate change impact of their operations.

### **The role of multilateral institutions, including bodies and processes within the United Nations Framework Convention on Climate Change (UNFCCC), in supporting CHRDs peaceful assembly and association**

Multilateral institutions, including bodies and processes within UNFCCC, should recognise the [core role](#) that individuals play as agents of change and partners in efforts to tackle climate change, and ensure that peaceful assembly and association rights are respected, protected, and fulfilled in the context of climate action. Affected communities and climate defenders, including children, should be able to attend and participate in such institutions’ meetings, processes, and programmes on an equal and safe basis without fear of reprisals. Where this involves a blended or digital format, with online participation, human rights protections and freedom from reprisals must exist in the online space.

All multilateral environmental and human rights institutions should ensure meaningful engagement with and participation of CHRDs in international level decision-making processes concerning them. This includes the provision of safe spaces for children and ways to engage in an accessible, child-friendly manner, both online and offline. In particular, public participation goes to the heart of the UNFCCC and children must be able to exercise their peaceful assembly and association at such institutions, including at COP-26 in Scotland this year.