

# **UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD**

## **Summary Report**

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## KEY FINDINGS

This summary sets out key findings from research<sup>1</sup> undertaken by a team from Queens University Belfast to update work from 2012<sup>2</sup> so as to further contribute to the evidence base that the Independent Mechanism for Northern Ireland (IMNI) will draw upon to inform its engagement with the UN Committee examination of the United Kingdom in 2014 and 2015.

The methodology used reviewed the current international and Northern Ireland context relative to the overall assessment of compliance with the UNCRPD and engaged with four key stakeholder groups: adults with disabilities; people with learning disabilities; children and young people with disabilities; and disability organisations. An Expert seminar was also held with stakeholders to discuss emergent findings and to gain a further insights into potential shortfalls in policies and programmes relative to the UNCRPD.

The 2014 research found that the priority gaps identified in the 2012 Report remained - specifically with respect to: Awareness-raising (Article 8); Participation in political and public life (Article 29); and Access to information (Article 9 and 21) and Statistics and data collection (Article 31).

In addition, the 2014 research found substantive shortfalls with respect to the following articles:

- Article 5: Equality and non-discrimination;
- Article 12: Equal recognition before the law;
- Article 19: Living independently and being included in the community;
- Article 24: Education;
- Article 25: Health; and
- Article 28: Adequate standard of living and social protection.

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<sup>1</sup> Byrne, B., Harper, C., Shea Irvine, R., Russell, H. & Fitzpatrick, B. (2014) UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD. Available from: <http://www.equalityni.org/Publications>

<sup>2</sup> Harper, C, McClenahan, S, Byrne, B & Russell, H. (2012): 'Disability Programmes and Policies: How Does Northern Ireland Measure Up?', Belfast: Equality Commission for Northern Ireland. Available from: <http://www.equalityni.org/Publications?subject=Disability&type=Reports&year=2012>

The 2014 research also identified key policy and programme areas with significant shortfalls (or potentially so) in Northern Ireland relative to the requirements of the UNCRPD. These were:

- Transforming Your Care (which aims to reform Health and Social Care in Northern Ireland);
- Northern Ireland Mental Capacity Bill;
- Welfare Reform programme; and
- Special Educational Needs and Inclusion Review.

This Summary Report aims to highlight the main findings of the research with regard to the areas outlined above. Further details can be found in the Full Report which is available from [www.equalityni.org](http://www.equalityni.org), or upon request.

## 1. Introduction

In 2010, the Equality Commission for Northern Ireland (ECNI), as part of the Independent Mechanism in Northern Ireland (IMNI), contracted research to develop an expert paper to set out robust evidence of any substantive shortfalls in public policy and programme delivery in Northern Ireland relative to the key requirements of the United Nations Convention on the Rights of Persons with Disabilities (UNCRC); highlighting any key issues / barriers to full implementation. The report, 'Disability programmes and policies: How does Northern Ireland measure up?' was published by ECNI in 2012<sup>3</sup> (hereafter referred to as the 2012 Report).

The present report was commissioned by the ECNI to update the 2012 Report and to contribute to the evidence base that IMNI will draw upon in its engagement with the examination of the United Kingdom (UK) by the United Nations (UN) Committee in 2014 and 2015. It is intended that the present research will assist the Independent Mechanism for Northern Ireland (IMNI), (ECNI and the Northern Ireland Human Rights Commission (NIHRC)), in the development of:

- Potential topics to be raised to the attention of the UN Committee and subsequently the UK State Party in a 2014 'List of Issues' paper;
- Submissions to the UN Committee, by the UK Independent Mechanism (UKIM)<sup>4</sup>, to assist in its examination of the UK State Party; and
- Engagement with the Executive, Departments and Stakeholders in Northern Ireland regarding the advancement of the UNCRC and equality for those with disabilities in Northern Ireland.

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<sup>3</sup> Harper, C, McClenahan, S, Byrne, B & Russell, H. (2012): 'Disability Programmes and Policies: How Does Northern Ireland Measure Up?', Belfast: Equality Commission for Northern Ireland. Available from: <http://www.equalityni.org/Publications?subject=Disability&type=Reports&year=2012>

<sup>4</sup> The Equality and Human Rights Commission (EHRC) together with the Scottish Human Rights Commission (SHRC), the Northern Ireland Human Rights Commission (NIHR) and the Equality Commission for Northern Ireland (ECNI) are the four designated independent bodies to promote, protect and monitor the implementation of the Convention in the UK. Collectively, the Commissions are the UK Independent Mechanism (UKIM) for the Convention. Source: [http://www.equalityhumanrights.com/uploaded\\_files/humanrights/uncrdp\\_mar2012.pdf](http://www.equalityhumanrights.com/uploaded_files/humanrights/uncrdp_mar2012.pdf)

## 2. UN Convention on the Rights of Persons with Disabilities: examination, reporting and implementation

The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) was adopted by the UN General Assembly on 13 December 2006 and came into force on 3 May 2008<sup>5</sup>. The UNCRPD comprises 50 articles and its Optional Protocol comprises 18 articles.

### 2.1 UNCRPD State Party Examination

Article 35 of the UNCRPD requires each State Party to submit a report to the UN Committee on the Rights of Persons with Disabilities outlining the progress made towards the realisation of the obligations under the UNCRPD within two years after the UNCRPD's entry into force within the State. Following the submission of a report by a State Party (the State Party Report), the UN Committee presents a list of issues based on the concerns raised by the report to which the State Party is expected to supply a written response. The UN Committee will then meet with the State Party delegation to provide Concluding Observations and recommendations on the report. The State Party will be expected to provide a progress report within four years or at the request of the UN Committee.

The UK submitted its initial State Party Report in 2011 and the UN Committee is due to draft a list of issues at its pre-sessional working group meeting on 10 October 2014, with the expectation that the UK will be examined by the UN Committee in 2015.

### 2.2 UK Initial State Party Report

The UK State Party Report, originally submitted in 2011, describes how the UNCRPD is being implemented domestically and outlines the approach to building upon existing legislation and policies to deliver equality for people with disabilities. It states the Government's intentions to remove barriers to social and economic

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<sup>5</sup> As of 1 April 2014, 145 States have ratified the Convention and there have been 158 signatories.

The UK signed the Convention at the first opportunity on 30 March 2007 and ratified on 8 June 2009, albeit with reservations relating to employment in the armed forces (Article 27), liberty of movement (Article 19), education (Article 24) and equal recognition before the law (Article 12).

participation faced by disabled people and focuses on inclusion and mainstreaming (with additional support available as required). It also commits to improving the involvement of disabled people in making decisions that affect their lives (including in determining policies and programmes).<sup>6</sup> The UK State Party Report addresses how the State is meeting its obligations under each article of the UNCRPD and identifies differences between Northern Ireland, England, Scotland, and Wales as appropriate. It is possible that the UK State Party will be examined by the UN Committee during its 13<sup>th</sup> Session which will be held in April 2015.

### 2.3 The Northern Ireland 'A strategy to improve the lives of people with disabilities: 2012-2015'

The Ministerial statement at the opening of 'A strategy to improve the lives of people with disabilities: 2012 to 2015' (hereafter referred to as the Disability Strategy) acknowledges 'our responsibilities to deliver the commitments in the United Nations Convention on the Rights of Persons with Disabilities'.<sup>7</sup> The Disability Strategy further affirms that the 'Executive is committed to delivering on the requirements of the UN Convention on the Rights of Persons with Disabilities'.<sup>8</sup>

The core of the Disability Strategy is the table provided as Appendix 1 of the Disability Strategy, which is entitled 'Programme for Government Commitments, UNCRPD articles, Strategic Priorities and Key Performance Measures' and seeks to relate the articles of the UNCRPD to the priorities of the Disability Strategy and Programme for Government 2011-2015 (PfG). The table includes a column which seeks to explain how each PfG commitment 'will address the needs of people with disabilities'.

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<sup>6</sup> CRPD/C/GBR/1 (2011): 'Consideration of Reports Submitted by States Parties under Article 35 of the Convention: Initial Reports of State Parties Due in 2011 – United Kingdom of Great Britain and Northern Ireland', at para 1-3.

<sup>7</sup> Office of the First Minister and Deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015', Belfast: OFMdFM, p. 3.

<sup>8</sup> *Ibid*, p.5.

## 3. Project background

### 3.1 Overview of the first report

This ‘Programmes and Policies’ research (undertaken by the Centre on Human Rights for People with Disabilities, Disability Action and published by the Commission for Northern Ireland early in 2012) identified a range of shortfalls and gaps in key policies and programmes relevant to the articles of the UNCRPD. The research also highlighted three key (cross cutting) areas for action fundamental to fulfilling the implementation, monitoring and accessibility requirements of the UNCRPD. These were:

- Awareness-raising (Article 8);
- Participation in political and public life (Article 29); and
- Access to information (Article 9 and 21) and Statistics and data collection (Article 31).

### 3.2 Focus and Methodology

#### Aim

The aim of the project, as outlined in the project terms of reference, was to produce

‘an ‘expert paper’, supplementing the ‘Programmes and Policies’ work commissioned in 2010, that takes account of socio-economic, policy and programme developments since then, to present robust evidence of any substantive shortfalls in public policy and programme delivery in Northern Ireland relative to the key requirements of the UNCRPD; highlighting any key issues / barriers to full implementation.’

#### Methodology

The method which the project adopted to deliver on the objectives consisted of 6 work packages. All of the work in the 6 work packages was carried out to provide an update to the earlier research on which the present research study is based. Work on each of the work packages overlapped, and therefore was not completed

sequentially. The work packages are briefly outlined below, for further detail please see the Full Report.

1. **International context** – this reviewed and determined the current international context for determining shortfalls in public policy and programme delivery in Northern Ireland relative to the articles of the UNCRPD;
2. **Northern Ireland context** – this looked at the broader context in Northern Ireland relative to the overall assessment of compliance with the UNCRPD;
3. **Stakeholder engagement** – this consisted of direct engagement with people with disabilities, their representative organisations and key stakeholders. This work package consisted of consultation with 4 stakeholder groups as follows:
  - a. Adults with disabilities;
  - b. People with learning disabilities;
  - c. Children and young people with disabilities; and
  - d. Disability organisations;
4. **Update on policies and programmes** – this consisted of an analysis of the policy and programme developments since the 2012 Report. It was structured article by article of the UNCRPD and examined articles 5 to 31 only.
5. **Interim Report** – this consisted of the production of the Interim Report of the findings. This work package was to ensure that the project was progressing appropriately; and
6. **Final Report** – this involved the refinement and revision of the analyses and recommendations of the Interim Report into a Draft Final Report in the light of feedback gained from an Expert Seminar that outlined preliminary findings and feedback received from ECNI on the content of the Interim Report.

The present research is intended to supplement, rather than replace the 'Programmes and Policies' research initiated in 2010. The work commissioned in 2010, and published in 2012, was used as a starting point for further consideration, but was not subjected to systematic critique by this project. The 2014 research was also not intended to comprise a legal opinion and focuses on an assessment of policies and programmes. The 2014 research also does not focus on the



effectiveness of any processes put in place by government to implement the UNCRPD, but rather where policy or programme outputs do not meet with the requirements of the UNCRPD.

## 4 Key areas where there are shortfalls in public policies and programmes in Northern Ireland

The Full Report provides a comprehensive overview of a range of socio-economic, policy and programme developments since the initial ‘Programmes and Policies’ research published by ECNI early in 2012.

In so doing, it highlights a number of shortfalls in public policy and programme delivery in Northern Ireland relative to the key requirements of the UNCRPD, highlighting any key issues and barriers to full implementation. These are summarised in this document.

### 4.1 Articles of the UNCRPD where there are shortfalls

This research has found that there continue to be gaps in delivery in the three priority areas identified in the 2012<sup>9</sup> Report with respect to the following articles:

- Awareness-raising (Article 8);
- Participation in political and public life (Article 29); and
- Access to information (Article 9 and 21) and Statistics and data collection (Article 31).

In addition, substantive shortfalls have been identified in the 2014 Report<sup>10</sup> with respect to the following articles:

#### Article 5: Equality and non-discrimination

In respect to fulfilment of the rights and obligations under equality and non-discrimination, there are a range of measures which could be implemented to protect

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<sup>9</sup> Harper, C, McClenahan, S, Byrne, B & Russell, H. (2012): *ibid* - pages 263-264.

<sup>10</sup> For a more detailed discussion see the full report - Byrne, B., Harper, C., Shea Irvine, R., Russell, H. & Fitzpatrick, B. (2014) - *ibid*.

disabled people from discrimination and which the NI Executive has not yet implemented. These include making changes to domestic law to strengthen and clarify the principles set out in Article 5; many of these changes have already been applied in Great Britain but have not yet been undertaken in Northern Ireland.

#### Article 12: Equal recognition before the law

With regard to equal recognition before the law, training on legislation is an important aspect of fulfilling commitments under this article of the UNCRPD. It must be recognised that training should not only focus on the legal requirements for interventions to be legally carried out but should focus on the obligations in the legislation to provide support to people in the exercise of their legal capacity. Likewise, measures and arrangements to support decision-making should be developed and better data kept on the loss of legal capacity. In addition, a review of legislation which deprives people of their legal capacity other than in areas of health, welfare and finance is also required.

#### Article 19: Living independently and being included in the community

Disabled people in Northern Ireland experience barriers to living independently and being included in the community. These barriers include a lack of choice, control and freedom to determine where and with whom they live and a lack of suitable transport to enable participation in the community.

#### Article 24: Education

With regard to the fulfilment of rights and obligations in education there is a risk that existing policy proposals will dilute existing entitlements for children and young people with disabilities and lead to inconsistencies in their education.

#### Article 25: Health

With regard to health, there is a lack of community based programmes that train disabled people on sexual health issues and wellbeing; there is a commitment to develop programmes but they are not specifically targeted at disabled people.

## Article 28: Adequate standard of living and social protection

Finally, in regard to having an adequate standard of living and social protection, disabled people in Northern Ireland are likely to be disproportionately affected by Welfare Reform, compared to those in other parts of the United Kingdom. Additional strains will be placed on disabled people through the Severe Disability Premium, to be introduced by Universal Credit, and the 'bedroom tax' (the spare room subsidy).

### 4.2 Northern Ireland policy developments which fall short of the requirements of the UNCRPD

The research team also identified key policy and programme areas which they considered to have significant shortfalls (or potentially so) in Northern Ireland with respect to the UNCRPD. In doing so, the same three criteria for the identification of key areas have been applied as were applied in the 2012 research<sup>11</sup>. These criteria are:

- The issue is one of the most intractable or persistent and/or one on which little progress is being made;
- The issue is disproportionately damaging i.e. the group affected may be small but the impact substantial; and/or
- The 'direction of travel' is negative i.e. existing evidence shows a worsening experience for disabled people.

The key areas of identified were:

#### Transforming Your Care

Transforming Your Care is likely to have a significant impact on the lives of a great many people with disabilities in Northern Ireland. It engages a range of articles of the UNCRPD, including:

- Article 10: Right to life;
- Article 19: Living independently and being included in the community;

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<sup>11</sup> Harper, C, McClenahan, S, Byrne, B & Russell, H. (2012): *ibid* - pp. 261-63.

- Article 25: Health; and
- Article 26: Habilitation and rehabilitation.

Given the three (cross-cutting) areas for action identified in the 2012 Report which have as yet not been adequately addressed through significant progress, the introduction of such a wide ranging reform of health and social care services is a cause for concern. It has the potential to both impact on a very large number of disabled people and for that impact to be substantial for many individuals. In large measure Transforming Your Care engages the social and economic right to health which is progressively realisable within available resources. This means that 'available resources' constitutes a valid limit on the extent to which the right can be realised at the present moment, but it cannot mean a 'falling back' or retrogression with respect to the right.

#### Northern Ireland Mental Capacity Bill

The Northern Ireland Mental Capacity Bill is likely to have significant impact on the lives of a great many people with disabilities in Northern Ireland. It engages a range of articles of the UNCRPD, including:

- Article 5: Equality and non-discrimination;
- Article 7: Children with disabilities;
- Article 8: Awareness-raising;
- Article 12: Equal recognition before the law;
- Article 14: Liberty and security of person;
- Article 16: Freedom from exploitation, violence and abuse;
- Article 17: Protecting the integrity of the person;
- Article 19: Living independently and being included in the community; and
- Article 25: Health.

Attitudes towards people with disabilities in Northern Ireland remain paternalistic and full implementation of Article 12 (*Equal recognition before the law*) is a key prerequisite to liberate people with disabilities from lesser lives as a result of such

paternalistic attitudes. Having its origins in the Bamford Review of Mental Health and Learning Disability,<sup>12</sup> the Mental Capacity Bill seeks to challenge the paternalistic attitudes currently enshrined in mental health law. Leaving aside questions of the requirements of Article 12 for law reform (as these remain a matter of deep dispute), it is clear that Article 12 requires a range of policies and programmes, including in connection with the implementation of the Mental Capacity Bill. For the Mental Capacity Bill to be a means of promoting and protecting the rights of people with disabilities in Northern Ireland, such programmes need to be adequately resourced. One such example of a specific programme is the independent mental capacity advocacy service which the Mental Capacity Bill requires be available in certain circumstances. However, general resourcing is also important to provide supported decision making services to protect and promote the rights of disabled people to make decisions for themselves. Without the proper resourcing of such services, it is possible that the Mental Capacity Bill will create a worsening experience for disabled people as they will be left more to make decisions themselves in all areas of their life, yet will not be receiving the support necessary to enable them to realise their mental capacity to make such decisions.

### Welfare Reform

The Welfare Reform programme is likely to have significant impact on the lives of a great many people with disabilities in Northern Ireland. With its clear emphasis on reducing welfare expenditure and thereby potentially deep negative impact on the income levels of many disabled people, its implementation has an impact on a very wide range of articles of the UNCRPD, including:

- Article 5: Equality and non-discrimination;
- Article 8: Awareness-raising;
- Article 19: Living independently and being included in the community;
- Article 20: Personal mobility;
- Article 24: Education;

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<sup>12</sup> See, in particular, Department of Health, Social Services & Public Safety (2007): 'Bamford Review Report: A comprehensive legal framework'. Available at: <http://www.dhsspsni.gov.uk/legal-issue-comprehensive-framework.pdf>.

- Article 28: Adequate standard of living and social protection;
- Article 29: Participation in political and public life; and
- Article 30: Participation in cultural life, recreation, leisure and sport.

Full implementation of Article 28 is clearly critical for many aspects of people with disabilities' lives. The deep negative impact that the reforms will potentially have directly impact on the ability to enjoy other rights – in particular, the ability to enjoy the right to independent living. It is concerning that there has been no effective assessment of the impact of the potential reforms on people with disabilities in Northern Ireland, despite the evidence provided in the present report, the impact of the potential reforms is likely to be greater for people with disabilities in Northern Ireland, not least given the poorer levels of health and higher numbers of people with disabilities in the population. There is thus a risk that not only is the Welfare Reform programme potentially retrogressive but that it will have a disproportionate impact in Northern Ireland compared to the rest of the United Kingdom. Consideration should be given to the additional costs of disability that can emerge as well as any additional implications that may arise due to the intersection between disability and childhood (that is, on families with children with disabilities) and the intersection between disability and gender (that is, on women with disabilities). It is likely that the UN Committee will express concerns about the potentially retrogressive effect of the Welfare Reform programme on people with disabilities.

### Review of Special Educational Needs and Inclusion

There is no evidence of a move, towards inclusive education for children with disabilities in Northern Ireland education policy as required by Article 24 (*Education*) of the UN Convention. This is despite the concern raised in the 2012 Report that the Department of Education's policy proposals with respect to Special Educational Needs and Inclusion would weaken the existing entitlements of children with disabilities.<sup>13</sup> The continued segregation of children with disabilities engages a range of rights under the UNCRPD, including:

- Article 5: Equality and non-discrimination;

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<sup>13</sup> Harper, C, McClenahan, S, Byrne, B & Russell, H. (2012): *ibid* - pp.184-195.

- Article 7: Children with disabilities;
- Article 8: Awareness-raising;
- Article 9: Accessibility;
- Article 19: Living independently and being included in the community;
- Article 23: Respect for home and the family;
- Article 24: Education; and
- Article 27: Work and employment.

The significance of the policy proposals should be recognised not just in and of itself but for their potential impact on the range of rights set out above. This is because education is both a right in and of itself, and a ‘passkey’ to the enjoyment of other rights and freedoms.<sup>14</sup> Children and young people with disabilities continue to face extensive barriers in their quest for educational attainment and fulfilment. Article 24 clearly requires States to guarantee a right to inclusive education. It is important that this right does not become exclusionary or inconsistent in its applicability to and between children and young people with disabilities. Inclusive education needs to be appropriately resourced – in both financial and human terms. It is also important that teachers are provided with training and that children and young people with disabilities are able to participate in the development and implementation of inclusive education policies. In light of this, there is a risk that the existing policy proposals will dilute existing entitlements and exacerbate existing barriers for children and young people with disabilities through, for example, the selective nature of Coordinated Support Plans (CSPs), the lack of meaningful involvement of children and young people in the development of the policy proposals, and differential rights to transitions planning service – all of which, in terms of the UNCRPD, would mean retrogression with respect to the human right to education of children with disabilities in Northern Ireland.

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<sup>14</sup> United Nations (2001): ‘UN E/CN.4/2001/52 Annual report of the Special Rapporteur on the right to education’, New York: United Nations.

### 4.3 The Northern Ireland 'A strategy to improve the lives of people with disabilities: 2012-2015'

The 2014 research has also considered the extent to which the articles of the UNCRPD are addressed by the Disability Strategy. The aim of the Strategy is to help Northern Ireland fulfil its obligations under the UNCRPD 'by establishing a framework to implement the UNCRPD.'<sup>15</sup> However, a number of issues that make this problematic are highlighted below.

The Disability Strategy defines itself with reference to the recommendations arising from the 'Report of the Promoting Social Inclusion Working Group on Disability' (PSI) which was effectively developed prior to the UK's ratification of the UNCRPD.<sup>16</sup> The Disability Strategy thus effectively rests on two foundations: the PSI and UNCRPD. This means that it is not always sufficiently or primarily focused on the UNCRPD to be considered a strategy for the implementation of the UNCRPD.

The Disability Strategy also notes that:

'The UNCRPD also makes provision for women with disabilities. Article 6 states that women and girls with disabilities experience multiple discrimination and that appropriate measure must be taken to ensure that women with disabilities are able to fully enjoy the rights and freedom as set out in the Convention'.<sup>17</sup>

However, whilst the Disability Strategy's Appendix contains a table outlining how the NI Executive was meeting its obligations under the UNCRPD no reference is made to Article 6 on *Women with disabilities*. A similar issue arises with respect to Article 7 on *Children with disabilities* as it receives only brief references in Appendix. It is noteworthy that children with disabilities receive very little direct consideration throughout the Disability Strategy and this is undoubtedly related to the failure to

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<sup>15</sup> Office of the First Minister and Deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015', Belfast: OFMdfM, p.6. The PSI group was established in November 2004 and presented its report on 3<sup>rd</sup> December 2009.

<sup>16</sup> Office of the First Minister and Deputy First Minister (2009): 'Report of the Promoting Social Inclusion Working Group on Disability', Belfast: OFMdfM.

<sup>17</sup> Office of the First Minister and Deputy First Minister (2013): 'A Strategy to improve the lives of people with disabilities 2012-2015', Belfast: OFMdfM, p.20.



adequately consider the implications of Article 7 for all of the substantive obligations and rights contained in the UNCRPD.

Article 10 on the *Right to life* is not mentioned in the Disability Strategy: a fact that demonstrates how inadequate it is as a strategy for implementing the UNCRPD. This lack of concern for key human rights is underlined by the lack of reference to Article 17 on *Protecting the integrity of the person*.

In general, the Disability Strategy Appendix reads as if the articles of the UNCRPD have been allocated to Programme for Government Commitments (PfG) and existing or planned programmes without any consideration of the actual obligations and rights contained in those articles. The connection between the PfG Commitments or programmes and particular articles of the UNCRPD is weak, unclear or, in some cases, not actual.<sup>18</sup> To deliver on the obligations of the NI Executive with respect to the UN Convention on the Rights of Persons with disabilities, the Disability Strategy should specifically address those obligations and rights. Simply referencing general programmes and Commitments to article numbers of the UNCRPD will not necessarily generate policies and programmes likely to deliver on the UNCRPD; the Disability Strategy should link actions to articles, not articles to actions. No further actions specific to each article are identified and it is not clear how each strategic priority is to be achieved in practice. There is a significant risk that the Disability Strategy will appear to be grounded in the rights and obligations of the UNCRPD, when in fact it is not. The appearance of respect for human rights without the substance is not a desirable situation, nor one which the UN Committee on the Rights of Persons with Disabilities is likely to welcome.<sup>19</sup>

#### 4.4 Northern Ireland Executive Contribution to the UK Government report to the United Nations Committee

The 'UK Initial Report on the UN Convention on the Rights of Persons with Disabilities' covers articles 5 to 33. However, the 'Northern Ireland Executive's Contribution to the UK Government Report to the UN Committee' (hereafter referred

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<sup>18</sup> See the consideration of articles 5-31 in chapter 7 in the Final Report. Byrne, B., Harper, C., Shea Irvine, R., Russell, H. & Fitzpatrick, B. (2014) - *ibid*

<sup>19</sup> It should be noted that this analysis reflects an analysis of articles 5 to 31 as discussed in chapter 7 in the Final Report. *Ibid*.

to as the NI Executive Contribution) submitted in 2011 did not make reference to the following articles:

- Article 11: Situations of risk and humanitarian emergencies;
- Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment;
- Article 17: Protecting the integrity of the person;
- Article 18: Liberty of movement and nationality;
- Article 21: Freedom of expression and opinion, and access to information;
- Article 22: Respect for privacy;
- Article 23: Respect for home and the family;
- Article 26: Habilitation and rehabilitation;
- Article 28: Adequate standard of living and social protection;
- Article 29: Participation in political and public life;
- Article 31: Statistics and data collection;
- Article 32: International cooperation; and
- Article 33: National implementation and monitoring.

The lack of consideration of articles 21, 28, 29, and 31 are particularly worrying since these have all been highlighted as of particular importance in the 2014 research<sup>20</sup>. It is important to note that aspects of at least some of the articles may well engage matters which are not devolved (for instance, articles 18 and 32). However, the majority of the articles do contain rights and obligations delivery on which are clearly devolved to the Northern Ireland Assembly and Northern Ireland Executive.

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<sup>20</sup> See chapter 8 of the Final Report for additional information. Byrne, B., Harper, C., Shea Irvine, R., Russell, H. & Fitzpatrick, B. (2014) UNCRPD: Shortfalls in public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD. Available from: <http://www.equalityni.org/Publications>

#### 4.5 Concluding comments

The UN Committee on the Rights of Persons with Disabilities has begun the process of elaborating upon the meaning of the obligations and provisions in the UNCRPD. This will continue to evolve as more states parties are examined and general comments developed.

This research has provided a comprehensive overview of the current state of play in Northern Ireland with respect to policies and programmes. In so doing it has taken explicit account of both the UNCRPD articles and the subsequent observations made by the UN Committee. Ultimately, the research has identified a range of shortfalls in delivery in Northern Ireland relative to the UNCRPD. It is clear that whilst there is a range of ways in which States Parties can realise their obligations, any policies and programmes should not be retrogressive in nature.

The evidence base that this provides will assist the Independent Mechanism for Northern Ireland in its engagement with the examination of the United Kingdom by the UNCRPD in 2014 and 2015. It is hoped that the shortfalls identified herein are addressed in advance of the UK's second examination so that the rights of all disabled people in Northern Ireland can be fully respected, protected and fulfilled.