

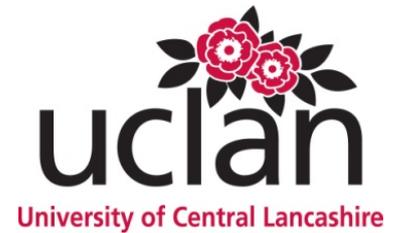
**EVALUATING THE IMPACT OF  
INDEPENDENT CHILDREN'S RIGHTS  
INSTITUTIONS:  
A EUROPEAN CASE STUDY**

By

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A thesis submitted in partial fulfilment for the  
requirements of the degree of Doctor of Philosophy  
at the University of Central Lancashire

October 2016



## **Student Declaration**

I declare that while registered as a candidate for the research degree, I have not been a registered candidate or enrolled student for another award of the University or other academic or professional institution.

I declare that no material contained in the thesis has been used in any other submission for an academic award and is solely my own work.

**Signature of Candidate** *Sara Inamian*

**Type of Award** **Doctor of Philosophy**

**School** **Social Work, Care and Community**

## ABSTRACT

Most European countries now have independent children's rights institutions, but there has been little attempt to systematically evaluate their impact. This study attempts to fill this gap by exploring the kinds of impact institutions make, and how this could be evaluated. Critical realism, case study and appreciative inquiry were the approaches to the research questions. The research had two phases: a survey of all members of the European Network of Ombudspersons for Children (ENOC) to get a broad picture of how they understood their impact; and to recruit participants for phase 2; and case studies in two institutions.

67% of ENOC members responded to the survey, which was designed to shed light on the context in which IHRICs are working, mechanisms and their outcomes. It showed that contextual factors helping members are their staff, mandate and independence, frameworks and networks, especially NGOs. Impact was sought in terms of full implementation of the UNCRC, influencing law and policy, and raising awareness of children's rights. As a result, the main focus of the case studies was on evaluating the organisations' impact on law and policy, and how this was informed by children's perspectives.

The second phase of the research involved talking to staff of the two institutions and a range of stakeholders, and reviewing relevant documents. This revealed that key contextual factors were: powers and remits, staff, political independence and background of the Ombudsman and Commissioner. Participants mainly pointed to the greater visibility and priority of children's issues in policy-making, greater participation, and raised awareness of children's rights as impacts of the two institutions.

The research showed that the impact of children's rights institutions can be substantial but variable, that evaluation has to be highly contextual, and that generalised indicators have limited value. It produced a template for contextual evaluation, to help ICRIs and IHRICs show the evidence of their impact and reflect on what works well for them. The study also suggested that institutions can act as interlocutors between children and the State by empowering both to engage in more effective dialogue, and so enable children to have real impact on policy.

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## **ACRONYMS AND ABBREVIATIONS**

AI: Appreciative Inquiry

CMO: Context, Mechanism, Outcome

CR: Critical Realism

CRC: The Convention on the Rights of the Child

CS: Case Study

ENOC: European Network of Ombudspersons for Children

ICRI: Independent Children's Rights Institution

IHRI: Independent Human Rights Institution

IHRIC: Independent Human Rights Institution for Children

Lapsisia: Ombudsman for Children in Finland

NGO: Non Governmental Organisation

NI: Northern Ireland

NICCY: Northern Ireland Commissioner for Children and Young People

NHRI: National Human Rights Institution

OFMDFM: Office of the First Minister and Deputy First Minister

PCF: Putting Children First

SEN: Special Educational Needs

UNCCRC: UN Committee on the CRC

UNICEF: The United Nations Children's Fund

## **CHAPTER 1: INTRODUCTION**

### **1.1. Background**

Independent Children's Rights Institutions (ICRIs) are usually in the form of Ombudsmen or Commissioners and have been given a vital role by the UN Committee on the Rights of the Child to monitor, promote and protect children's rights (Lansdown, 2001). These institutions have a responsibility to measure their outcomes and monitor their effectiveness in improving children's lives (CRIN, n.d.a). Despite the international movement for the establishment and recognition of these institutions' role in implementation of the CRC, they have mainly remained under-researched (Lansdown, 2001) and their impact has stayed unexplored.

As stated by Thomas et al. (2011), there is some debate about whether to refer to independent children's rights institutions (ICRIs) or to independent human rights institutions for children (IHRICs). There are advantages and disadvantages to both terms. The latter one is used here to reflect the fact that some of the institutions discussed are part of general human rights institutions, rather than specialist institutions for children. The CRC refers to 'independent national human rights institutions for children'. However, it is a fact that many operate at the level of a city, province or region, or a devolved or autonomous nation within the member state.

Impact evaluation of IHRICs was the topic of a pre-defined scholarship by UCLAN. I decided to apply for it firstly because there are no IHRICs in my homeland and I had thought about and organised a seminar on the necessity of establishing such institutions a few years ago. Secondly, the 'impact' of IHRICs seemed interesting to me as I had worked on social construction of childhood and its co-constructors before. With a constructionist approach, I was hoping to give considerable weight to the role of IHRICs in the social construction of children's rights, and I believed evaluating the work and impact of an IHRIC is essential for ensuring that the institution remains adapted to the constant evolutions transforming childhood and is able to demonstrate its relevance (United Nations Evaluation Group, 2005).

Later, I learned that this is not the only objective for impact evaluation. According to Thomas et al. (2011), demands for impact evaluation have risen due to the rapid growth of these institutions; where resources are scarce (UNICEF, 2013) and/or in order to make a convincing case for the creation or keeping of ombudsmen or commissioners for children, it is necessary to demonstrate to decision-makers and the public that these institutions are effective in improving children's lives (Lansdown, 1997). Governments and law-makers are eager to make sure the funding delivered to these institutions is worthwhile. Members of civil society are also concerned with real progress in children's rights and advocacy for that, and the institutions themselves want to be aware of their functioning and efficiency in pursuing their goals and using their resources (Thomas, 2011). These relate also to underlying themes such as legitimacy and credibility of the office (Brown, 2009). All these demand a critical realistic approach to evaluation.

## **1.2. Approach to Impact Evaluation of ICRIs**

An evaluation is an assessment (as impartial as possible) of a programme or institutional performance that examines achievement, as well as the factors that have influenced it (United Nations Evaluation Group, 2005). The Oxford Dictionary (2011) defines ‘Impact’ as a marked effect or influence and Patton (2008) asserts that an impact evaluation paints a picture as to how a program might have affected participants’ lives on a broader scale by looking at the long-term, deeper changes that have resulted from that program. As Brown (2009:209) indicates, ‘the objective of assessing the impact of the Ombudsman is to find the answers to: what the Ombudsman is for and what difference the institution makes’. Therefore, the main questions of the research were chosen as:

- 1) What impact do IHRICs make?
- 2) How can their impact be evaluated?

## **1.3. Originality**

Despite its importance, evaluation has not become part of the culture of independent human rights institutions for children and a study of 67 of them suggests that very few have been able to set up an effective monitoring and evaluation system (UNICEF, 2013). Furthermore, no systematic study of the IHRICs that is capable of introducing a framework for impact evaluation of these institutions has been produced (Thomas et al., 2011) and no tools or frameworks currently exist for evaluating their impact.

This study has attempted to fill this gap with the aims to explore conceptualisations of ‘impact’ by ICRIS and IHRICs in addition to developing methods and tools for measuring their impact. This research project attempts to work on a systematic, in-depth, comparative, and collaborative impact evaluation of IHRICs to fill the gap of impact indicators for IHRICs. This impact evaluation is intended to help institutions create a culture of thinking critically about their work and constantly seeking to improve performance (Coffman, 2007). This generally requires an organisation to become more self-conscious about its role and influence (International Council on Human Rights Policy, 2009). This study avoids encouraging the culture of evaluation as a bureaucratic task for these institutions to tick off. It tries to respect evaluation as ‘essential to addressing a childhood in constant transformation’ and ‘crucial to meeting evolving challenges to institutional independence and sustainability’ (UNICEF, 2013: 49). I hope this impact evaluation will strengthen IHRICs by highlighting the areas where improvements can be made in them (Coffman, 2007).

## **1.4. Structure of the Thesis**

The thesis based on this project will be presented in the next seven chapters as outlined below.

### ***Literature Review***

This chapter will start with a background to children's rights and will continue with ideas on the CRC, its implementation and its critics. A historical account of approaches to children's rights will be discussed which will be followed by debates on children's participation in policy-making and writing rights by children, for children. Next, the background, function and mandates and context of IHRIs and IHRICs, in addition to their impact, will be presented. Finally, theories of evaluation and indicators; and previous attempts at evaluation of these institutions will be reviewed.

### ***Methodology***

Critical realism as my epistemology for this research will be introduced. This will be joined by a section on Case Study, and Appreciative Inquiry and why these methods have been chosen for this piece of research. The research design will narrate my journey from the beginning of the project and the influencing factors on the decisions made. Next, the ethical issues faced will be reported and a list of participants will be presented.

### ***Findings and Analysis 1- Survey***

Findings of the first phase of the project, which was a survey with European IHRICs, will be discussed. Analysing these data and what they reveal about contexts, mechanisms and outcomes of these institutions will be illustrated. The chapter includes patterns across data which point to similarities and differences of the CMOs of the participants.

### ***Introduction to the Case Study Institutions***

In this chapter on case studies, contexts of the institutions will be reviewed briefly. Then, the story of their establishment, their organisation, function and strategies will be pointed to.

### ***Findings and Analysis 2- Case Study***

A detailed narration of their micro successes will be presented, alongside their success factors. The case study institutions will be compared with regards to the activities they identified. The final section of this chapter provides the reader with the evaluation of the institutions by participants.

### ***Discussion***

This chapter starts with a summary of the findings of the survey and case studies. Then my analysis of the observations along with interviews and documents will be presented. This part will continue with an overall comparison of case studies and will be followed by the introduction of a template for impact evaluation of IHRICs, explaining how it was designed and directions for its application.

## *Conclusion*

In this chapter, I will report on what was learned throughout this PhD journey; introduce the main products of this project and make some recommendations for IHRICs. Finally, this study's contribution to research, knowledge, theory and practice in addition to its impact on IHRICs, will be discussed.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1. Introduction**

This chapter will focus on the history and theories of children's rights and childhood, the Convention on the Rights of the Child, and will highlight any criticisms of it. Then, the approaches to child participation will be reviewed and a model on children's rights will be introduced. The next section of the chapter will include information about IHRIs' and IHRICs' mandates, functions and impacts. A brief discussion about IHRICs in Europe will also be included. Theories of IHRICs' evaluation and previous empirical studies on evaluations of both IHRIs and IHRICs will be examined in the third section of this chapter.

These topics were chosen as the CRC is the basis of the work of IHRICs and these institutions are one of the ways to institutionalise children's rights which are influenced by childhood studies. In order to understand their impact, studying different approaches to children's rights is needed. Besides, determining my orientation to children, their rights and IHRICs' impact and how it should be evaluated is important.

### **2.2. A Brief History of the Children's Rights Movement**

According to Liebel (2013b) beginning of children's rights is to be found in the European Enlightenment, i.e. in the 18<sup>th</sup> Century, which considered children as different to adults in terms of their basic needs and whose needs are to be taken into special consideration, which is similar to the idea of child protection. However, he points out that one can neither view children's rights purely as a European achievement nor limit their beginnings to the last 250 years. A child's right to be protected probably has the longest and most widespread history. This emerged from the conviction that the life of a new-born deserves protection.

Later on, the belief that a child should have more independence was interlinked with the idea that the community - represented by the state - ought to care for the well-being and the development of the child so they can become an adult who is capable of working. Compared to protection rights, the provision and participation rights of children seem to have developed more recently. Thus, unlike the history of general human rights - at least in Europe and North America - children's rights began by protecting children, not by asserting their freedom (Liebel, 2013b).

The child protectionist or 'child-saving movements' (Platt, 1969 cited in Hanson, 2013: 64) had come into being at the end of the 19<sup>th</sup> Century in the context of uncontrolled industrialisation and its consequences for the living conditions of poor working-class children. The child savers considered it a moral duty to offer children protection, as they saw children as passive victims. These well-intentioned adults contributed massively to the passing of laws on child protection

and the establishment of the related organisations and academic and professional practices with a focus on children's needs instead of rights especially with regard to child labour and education.

After World War I and World War II, the fact that children had been the first victims of human rights violations was recognised at the international level and the UN and NGOs stressed more on the provisions of violations of human rights of children. Debates on the re-education of juvenile delinquents in the US and the situation of children with divorcing parents motivated discussions on the best interests of the child (Heintze, 1992).

Eglantyne Jebb - founder of Save the Children in 1919- had drafted and persuaded the League of Nations to adopt the Geneva Declaration on the Rights of the Child in 1924. The Declaration had 5 principles which were mainly protecting children's needs for their 'normal development' (first principles). This was amended and accepted by the UN in 1948 and then in 1959, a more extensive Declaration was introduced including civil rights beside protection rights for children with an emphasis on the best interest of the child.

According to Lifton (1988), in the early part of the 20<sup>th</sup> Century, Janusz Korczak 'was formulating a declaration of the rights of the child which was strikingly modern: a right to respect, a right to be taken seriously, a right to resist educational influence that conflicts with his or her own beliefs are just a few of the rights he advocated' (p.355). But his ideas did not find their way into further Declarations of the Rights of the Child which were based on the child's best interest with an implicit emphasis on duties to children (Freeman, 1992a).

Discourse about children and their rights has moved on rapidly since the 1960s. The liberation movement in the 1960s challenged those who claimed the status of children could be advanced exclusively by focusing on children's increased protection. The emphasis on protection and welfare shifted to autonomy, self-determination and justice (Farson, 1974; Holt, 1975; Freeman, 1992a). Protests by European university students in May 1968 and the spread of militancy among school pupils plus supporting underground literature and individual advocates for children's rights led to claims for rights such as the right to educational democracy, free access to knowledge, freedom of expression, and the abolition of corporal punishment (Wringe, 1981).

The children's liberation movement in 1970s demanded that children should be granted all basic civil rights, as well as the right to assert these rights independently. Liberationists acknowledged children's competence rather than their age and recognised the child as an autonomous and self-determined person (Verhellen, 1992). Their ideas were anti-paternalistic and grounded in self-determination. Their emphasis on children's rights rather than children's needs influenced the human rights sphere (Verhellen, 1992, Hill and Tisdall, 1997, Cantwell, 2011).

In 1979 (the International Year of Children) Poland proposed a Convention that unlike the previous Declarations could be legally binding as a formal treaty (Hill and Tisdall, 1997; Thomas,

2014). One argument for moving from the Declaration to a Convention was the desire to lay down precise obligations for states. Another was that the existing international standards for the protection of children were scattered among some 80 different legal instruments. It was proposed that these ought to be brought together in one comprehensive law (Hammarberg, 1990: 98). Poland's proposal started a long process of drafting the CRC in 1980s by the working group comprised of representatives of UN states. As Cantwell (2011: 40) has put it:

*'The drafting of the CRC marked the first time that a child-specific international instrument was developed from start to finish under the auspices of a human rights body - the then UN Commission on Human Rights. This 'environment' brought together interested international NGOs as participating observers at the working group over the lengthy 10 year period of negotiating the content of the treaty. It was an unprecedented encounter between human rights NGOs, well-versed in that kind of exercise and in operating in the UN context, and other NGOs that had specialist knowledge on a wide range of children's issues but little or no experience of working with Human Rights bodies and at the intergovernmental level. It was the ever-developing cooperation among these different sectors of civil society, made possible by the nature of the exercise and the lengthy time-frame that produced the global 'children's rights movement'. It also gave rise to the concept that might best be described as 'the human rights of children'.*

Although it is reported that no children participated in the drafting (Miljeteig-Olssen, 1990, Freeman, 2009, Cantwell, 2011, Kilkelly, 2011a) Van Bueren (2011) claims that children participated in some of the drafting through speaking directly to the open-ended working group of the Commission of Human Rights entrusted with drafting the CRC, lobbying against the death penalty and signing an international petition to exclude children from armed conflict. Their participation was 'more *ad hoc* than structured and occasional rather than comprehensive' (p.118), but most of their interventions were taken into account.

In 1989 the Convention on the Rights of the Child (CRC) was adopted by the UN and was ratified by almost every state (as of 2015, only US is remaining). These aspects of the Convention and the drafting process are particularly interesting: developments in the conceptualization of children's rights, the drafting process as a consciousness-raising process, participation of NGOs and developing adequate ways of advocating children's rights (Miljeteig-Olssen, 1990). Freeman (1992a: 5) describes the CRC as a 'turning point in the history of children that was greeted with euphoria' by those who saw children's rights in welfare terms and those who wished to promote children's self-determination. However, it should be kept in mind that 'the rights were never formulated by children but by adults for children and that they were specked with reservations' (Liebel, 2013b: 32).

### 2.3. Children's Rights Theories

Children's rights can still be described as a 'slogan in search of definition' (Rodham, 1973 cited in Freeman, 2002). Approaches to childhood alongside the historical evolution of childhood continue to influence children's rights (Lowden, 2002) and Flekkoy finds it important to be aware of the changes in attitudes to children in order to improve children's rights. She identifies the 'prevailing attitudes to children' as 'possessions of their parents, natural phenomena, the answer to adults needs and a social group' (1992: 147). Children's rights are described as an under-theorized field (Reynaert et al., 2009; Freeman, 2012; Quennerstedt, 2013; Cordero Arce, 2015) mainly because there is this paternalistic and discriminatory discussion about whether children really have rights (Fergusson, 2013; Ross, 2013; Tobin, 2013) or there is an implicit consensus that children have rights and the CRC is treated as a theoretical framework of children's rights (Quennerstedt, 2013). The debate on children as rights bearers has been going on for decades now and might explain the impossibility of theorizing from it. If still there is not an agreement on children's having rights and its reasons, it is not possible for them to move and start building a proper theory of those uncertain rights (Cordero Arce, 2015).

Those against children's rights argue that children still have to grow up to become rights bearers (O'Neill, 1988), children are still far from competency and rationality (Brighouse, 2002) and they are morally different from adults as they lack capacity (Purdy, 1994; Griffin, 2008). Some are concerned about adults' rights, especially parents (King, 1997; Goldstein et al., 1998; Guggenheim, 2005) and that children might make wrong decisions in case they are given autonomy by rights (Brennan, 2002). Those in favour of children's rights argue that children should be given rights to protect their dignity as human beings (Archard, 2004; Freeman, 2007, 2010) and that children should be given all human rights as giving them some rights and refusing them the others will question the meaning of rights (Federle, 1994) and that rights are based on an autonomy which is based on child-adult interactions and interdependencies rather than individualism (McGillivray, 1994) and criticise the deniers for being horrified of giving children rights without duties (Campbell, 1994).

According to O'Brien (2011) there are two main theories that are competing in founding a theory of children's rights: interest theory and choice (will) theory. Raz founded the interest theory based on the benefit theory of Bentham. This theory implies how an interest can justify a right which involves justification of a duty. The choice theory has its roots in Kant's ideas on rationality. Hart (1955) founded this theory which implies that the key to have a right is autonomy and rights emerge from having choice over someone's duty. So, rights are based on the capacity of their holders.

MacCormick's (1976) argument - that although children would lack capacity, they have rights which are based on their interests - raised debates in 1970s in favour of interest or will rights for

children. As Clucas (2003) asserts, those theorists who recognised the problems posed by the will theory e.g. O'Neill, 1988, 1992; Griffin, 2008) for respecting children's lives 'took refuge' in versions of interest theories (Campbell, 1992; Ross 2013, 2014; Tobin, 2013). Based on Rawls (1972) rational theory, Hart (1973) argued that despite children's incapability of exercising choice they should be rights holders for they might have representatives i.e. parents to exercise choices on behalf of children. Worsfold (1974) discussed that children should be included in the exercise of choices if they are capable which in his view meant being rational and capable of accessing the principles of fairness (Thomas, 2000). Later on, those in favour of his ideas joined the camp of will (choice) theory (Sumner, 1987; Steiner, 1994).

Archard (1993) identifies two main theories about children's rights: Liberationist and Caretaker. These are based on capacity of children. Liberationists think 'all age related disabilities' (Freeman, 1983: 45) should be removed from all children (Farson, 1974; Holt, 1975; Cohen, 1980). They believe that all children should be treated like adults and consider children as agents. They regard children's incompetence as an ideological construct (Thomas, 2000). Freeman (1983) argues this would mean ignoring evidence from developmental psychology, which show stage and gradual maturity and progress in competence of children and might not be fair to adults.

The caretaker thesis puts emphasis on children's incompetence as a basis for paternalism. This goes back to Locke's rejection of Hobbes notion of children as properties of parents and emphasising that parents should be responsible for children (Thomas, 2000). Caretakers or paternalists are sceptical about whether children should have rights. They either argue that due to their incompetency, children cannot be entitled human rights (Griffin, 2002) or adults owe some obligations (duties) to children (O'Neill, 1988) for protecting them, and despite their lack of agency children can be morally assured some welfare rights (Brighouse, 2002) and try to protect children from making mistakes by deciding on behalf of them (Mayall, 2002; Cockburn, 2005). So, caretakers mainly talk about protection and provision rights. Freeman (1983) discusses that protection rights are highly paternalistic as children are not asked whether they wish to be protected, but he also criticises liberationists such as Cohen's (1980) child agent. He argues that Cohen 'seems to want the child to make his own decisions but he does not trust him to decide on his own' (Freeman, 1983: 74).

Hanson (2013) suggests differentiating these two main strands into four schools of thought - as ideal-typical stances - Paternalism, Welfare, Emancipation and Liberation. He considers four dimensions for understanding these variations in approaches to children's rights. These dimensions are the childhood image, the debate on competence, the rights of children and the difference dilemma, which relates to adult-child differences and whether children should have special rights (see Table 1).

	Paternalism	Welfare	Emancipation	Liberation
Childhood Image	Becoming	Becoming and being	Being and becoming	Being
Competence	Incompetent	Incompetent, unless	Competent, unless	Competent
Rights of children	Protection rights	Protection rights Provision rights Participation rights	Participation rights Provision rights Participation rights	Participation rights
Difference Dilemma	Special rights	Special rights Equal rights	Equal rights Special rights	Equal rights

**Table 1.** Schools of thought in children’s rights (Hanson, 2013: 73)

As Liebel and Saadi put it, the paternalistic protection of children’s rights which is exercised by adults who ‘mediate the state’s relationship to the child’ (White, 2002: 1097), is dominant among state and NGOs. And it provides children with limited chances to impact on the interpretation and realisation of their rights (Liebel and Saadi, 2013a).

The approach to children’s rights based on their welfare stresses protection and provision rights. Provision rights originate from the common belief of the Enlightenment days that children are different to adults in terms of their basic needs and that these needs are to be taken into special consideration. Another supporting idea was that children ‘develop’ in order to become adults (Liebel, 2013b). ‘The welfare approach to children’s rights has continuously and largely been dominant in the children’s welfare sector, both on the national levels as well as in international cooperation’ (Hanson, 2013: 76).

Manson (2005) believes that policies based on welfare approaches to children’s rights can be seen as a mechanism for the institutionalisation of the ‘asymmetry’ in adult-child power relations (Alanen, 1994). Liberationism, the approach to children’s rights based on their autonomous rationality, on the other hand, emphasises children’s rights to services and benefits from society and freedom/self-determination in addition to the responsibility of those in power acting for the powerless (Liebel, 2013b). Traces of the ideological conflict between welfare and rights-oriented approaches can still be found in the CRC (Freeman, 1992a).

From an emancipation perspective, children are seen as both being and becoming. Emancipationists rank children’s participation rights as their most important rights and further acknowledge the importance of rights to provision and protection. As for the difference dilemma, emancipationists consider equal rights for children first, but also acknowledge children’s special rights and how they might have stronger emancipatory effects (Hanson, 2013).

There have been attempts in combining theories of interest vs will and liberation vs paternalism. For instance, Freeman (1983) has argued that children should gain rights of agency as they gradually gain competence (Hill and Tisdall, 1997). Inspired by Locke’s paternalism and Rawls’

notion of equality, Freeman (1983) introduces 'Liberal Paternalism' that legitimates intervention in major decision makings by children and their parents. Archard (1993) introduces 'Rational Autonomy' which is comprised of independence, maturity and rationality (cognitive competence). Eekelaar (1994) talks about 'Dynamic Self-determinism' that gives weight to the part to be played by children of any age in dialogue about their interests (Thomas, 2000). So, these are granting different degrees of agency to children to be able to deserve enjoying a combination of welfare and self-determinism rights. It is important to take the absence of children in the debates regarding their rights into consideration.

As aforementioned, different groups and individuals with different approaches have contributed to defining and advocating children's rights. Among these approaches, the emancipationists that focus on children's competencies and welfare, the differences between children and adults and power relations seem to be closer to the ideal function and the impact of an IHRIC. IHRICs as tools in institutionalising children's rights should search for innovative and effective ways of advocating for them and helping in theorising 'rights of children, from children and with children' (Cordero Arce, 2015).

The rights-oriented approach is supported by the new paradigm of childhood studies, which considers children as social actors and independent stakeholders of services rather than mere participants of adults' protection (Liebel, 2013a). Some roots of childhood studies can be found in emancipation movements such as the women's movement or the civil rights movement. 'In step with those approaches, children's rights advocates wanted to liberate children and argued in favour of children's equal rights. Their claims were directed against both family and state, whose paternalistic approaches to children were considered an impediment to young people's pursuit of autonomy and full participation in society' (Hanson, 2013: 63). This perspective re-conceptualised the concept of 'childhood' as a social construction and understood children as active participants in society (James, 2009).

#### **2.4. Childhood Theories**

As previously mentioned, debates around children's rights are based on 'ontological differentiations' of children and adults (Oswell, 2013) i.e. agency, rationality, maturity and age with the main focus on agency - which is the main criterion for having rights (Freeman, 2007, 2011). Those who do not consider children as rights-bearers believe they will be attributed rights throughout the stages of acquiring agency (Griffin, 2002). In the last decades of the 20<sup>th</sup> Century a new paradigm on childhood emerged with an alternative perspective on children (Qvortrup, 1990; Alanen, 1992; James and Prout, 1997; Jenks, 2005) that contributed to theorising children's rights through claims on agency for children considering childhood as a social phenomenon (Freeman, 2012; Verhellen, 2015). Childhood studies showed that 'children are vulnerable as is

everyone' (Herring, 2012) and that biological vulnerability should not be mistaken for socially constructed vulnerability of children (Lansdown, 1994; Archard, 2015).

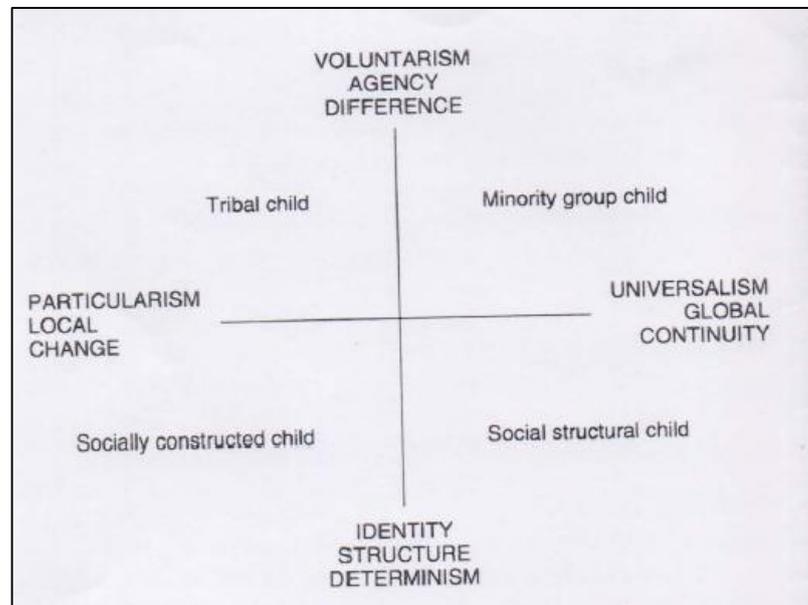
Research in childhood studies showed that children from the very early ages can negotiate with others and influence decisions and social assumptions (Alderson et al., 2005). Even young children can make rational decisions (Hyder, 2002; Lansdown, 2004 cited in Kellett, 2009b) and viewing adulthood as 'being' reinforces the conceptualisation of childhood as separate and incomplete. But, when defining adulthood as a state of becoming, childhood will not be thought of as an inferior stage (Archard, 2015). The new paradigm provided opportunity for rethinking the differences between adults and children, mainly on issues of autonomy, independence and competence (Alanen and Mayall, 2001). On the other hand, it showed that because children have less experience and their economic contribution is not taken seriously, they do not have access to the political sphere (especially in the global South) and some argued that not only children have rights but also they should have a separate convention of rights (Mayall, 2015).

Some childhood theorists perceive children as social actors (Wyness, 1999; Christensen and Prout, 2005); by bridging the 'micro and macro gap' (Corsaro, 2005), they demonstrate how childhood is 'co-constructed' (Qvortrup, 1994) by children, adults and structures (James, 2002). This group consider children as active members of the society (James et al., 1998; James and James, 2008) who negotiate and respond to social policies (Spyrou, 2008). Some experts even go further and assert that children are agents whose agency is neither suppressed by adults nor restricted by social space and time, and they act autonomously (Opie and Opie, 1977 cited in James et al., 1998; Stephens, 1995; James, 1998,) or argue that children are social agents similar to adults and claims such as children's lack of agency are adults' constructions of childhood (Mayall, 2002).

In an explanatory typology of childhood with 'childhood dichotomies' of agency-structure, universalism-particularism, local-global, continuity-change (James and James, 2001; Smith, 2007; Oswell, 2013), James, Jenks and Prout proposed a model for theorising and researching childhood in 1998 (see Figure 1). They explained the ideal types of four dominant discourses of childhood in their model as:

- 1- The social structural child in which childhood is a generalizable category, an enduring (though changing) feature of the social structure of any society and one which is universal, global and in possession of a recognizable identity.
- 2- The minority group child which is universalistic, differentiated and global, and fails to find liberation through the historical process. It sees children as conscious and active beings with a consciousness awaiting mobilization.

- 3- The socially constructed child that is built up through constitutive practices, in either a strong or a weak sense. It is a local rather than a global phenomenon and tends to be extremely particularistic.
- 4- The tribal child that can, in many senses, be read as the empirical and potentially politicized version of the 'socially constructed' child (James et al., 1998: 210-214).



**Figure 1.** James et al. Model of Childhood (1998: 206)

Their model has been criticised for individualising children as sociological types, ignoring the intertwined nature of structure and agency, and not defining what they mean by child agency (Oswell, 2013). The model has also been criticised for over-stressing agency rather than considering the power of structures (Mayall, 2002), and 'awkward' application of the term 'social construction' both to the paradigm and to one of the four defined childhoods (Morss, 2002).

Theorizing childhood in 1980s and 1990s uncertainty of late modernity was accompanied by optimism in society about children's participation but after the 2008 financial crisis, these turned to some conservative opinions about the potentials of childhood and children's studies. Also the 'discursive monopoly' of socially constructed childhood was criticised by other social disciplines (James and Prout, 2015) besides critics of childhood studies for not being capable of any 'real' theorising of childhood and sociology of children's rights, and clarifying the ambiguities of childhood (Freeman, 1998, 2012) in addition to paying less attention to contextual and structural issues and the dynamics of power (Qvortrup, 1994; Thomas, 2000; Hart, 2008; O'Connor, 2009).

In response to the last set of criticisms Jenks (2002) has argued that describing childhood as a social construct will need suspending all its meanings that were previously taken for granted. Social constructionists have to suspend assumptions about the existence and causal powers of a social structure that makes things like childhood as they are. They do this to be able to explain how childhood is built up as a phenomenon.

The idea of social construction of childhood has been criticised for stressing relativism and plurality of childhoods and focusing on agency and capacity of children (Morss, 2002; Qvortrup, 2005; Freeman, 2012). Childhood studies should not frame children's agency as a simple binary of having or not having agency, but it should recognize the dependencies of children as well as their incapacity, abuse and power relationality. Childhood studies should also avoid relying on a set of myths including: individual child, identity and difference, homogeneous and static space, unitary scale and the social agent. These myths ignore that capacities of children are dependent on their locally situated interrelations with other children or adults, and spaces of children and adults are not two separately fixed spaces. In reality, there are overlaps and no clear-cut divisions between the concepts of children and adults and it is not easy to assume a generalised series of equivalences in the relations of children and adults, nor can a principle which divides between them as a binary relation be assumed. Application of Giddens' structuration theory by childhood studies has also been criticised as he overemphasises the capacity and capability of individual agents. Mayall (2002) and Alderson (2013) have chosen Bhaskar's (1979) combination of structure and agency.

## **2.5. Convention on the Rights of the Child (CRC)**

'The CRC expresses the specific idea of children's needs the governments and experts drafting the CRC during the 1980s could reach a consensus on. The result is not to be underestimated; it expresses a surprisingly great shift towards taking children seriously and conceptualizing their well-being and welfare not as being at the arbitrary discretion of parents and the state or dependent on the goodwill and benevolence of 'child-saving' charities anymore, but as a question of entitlements. For the first time, children became rights-bearing subjects of international law'. (Liebel and Saadi, 2013a: 109).

The most important improvement of the CRC is creating the definitive body of international law on children's rights: it 'creates a permanent international forum that will force a protracted discussion on the rights of the child [and] a monitoring system written into the Convention provides for the appointment of a committee of ten [now 18] experts who are elected by the ratifying countries' (Heintze, 1992: 74). Liebel and Saadi (2013a) point out that the CRC also grants participation to children for the first time - although in a limited way - with the intention to codify the rights of the child to be heard and consulted.

Through the CRC, the rights of the child are acknowledged. Acknowledging rights is important as it provides a new foundation for self-respect and the respect of and for other people (Rodham, 1973, cited in Verhellen, 1992). 'It would be a grievous mistake to see the Convention as applying to childhood alone. The Convention is for all people. It could influence their entire lives. If its aim can be realized, the Convention can truly be said to be laying the foundations for a better

world' (Eekelaar, 1992: 234). The CRC is appreciated as a 'convenient benchmark' which contributes to fundamental improvements in the lives of children all over the world (Freeman, 2009) and as 'a step forward in comparison with other instruments for the protection of children' (Heintze, 1992). However, the Convention is 'a beginning rather than the final word on children's rights' and its limitations should be reflected on (Freeman, 2009: 388).

According to the UNCCRC - the monitoring body of the CRC - the Convention has four basic principles of non-discrimination, the best interests of the child, survival and development; and respect for the views of the child (Arts 2, 3, 6, 12). The CRC grants children with rights that could be grouped in the typologies of protection, provision and participation known as the 'three Ps' (Freeman, 2007; Kilkelly, 2011a; Verhellen, 2015). The CRC is comprised of a Preamble and 54 Articles. The Preamble is about the background and justification of the CRC. Arts 1-41 define the rights of the child and obligations of the States Parties. Arts 42-45 are about the monitoring procedures of the CRC's implementation. Arts 46-54 indicate the formal provisions of the Convention (Hill and Tisdall, 1997; Thomas, 2014; Verhellen, 2015). There are also the UNCCRC's guidelines for interpretation and implementation of the articles in the form of thematic General Comments (GCs) in the text of the Convention. Articles 1 and 12 have been exceptionally given specified GCs. UNCCRC's policy of thematic GCs reflects their holistic approach to interpreting the Convention. Some of the general comments have been prepared by members of the committee, but more often this has been based on the work of and consultation with experts e.g. in UNICEF, World Health Organisation (WHO), or NGOs or academics (Doek, 2011; Parkes, 2013).

Criticisms have been expressed with regard to the absence of children in the drafting process (Freeman, 2011). In response to critics on the absence of children in drafting of the CRC, Kaufman and Rizzini (2009) have asserted that the CRC has been challenged as children were not included in the drafting which is right but NGOs played an active role and many of them were child advocacy groups.

Although the CRC might seem an 'easily understood advocacy tool' (Veerman, 1992: 184) contextual factors and ideas about children lead to different interpretations of the wording and content of the Convention (Clucas, 2003; Williams, 2007). As Verhellen (2015) states, the CRC represents a 'holistic' image of childhood (children both in need of protection and as active right bearers) and emphasises the indivisibility and interdependency of human rights in which no distinction or priority should be between different groups of rights. And this has implications for policy and practice and sometimes causes difficulties for implementing the CRC. Despite this, the CRC is criticised by some for failing in addressing the potential conflicts between different rights granted to children and its vague Articles (Olsen, 1992; Marshall, 1995; Eekelaar, 1994; Hill and Tisdall, 1997) and for containing only minimum standards of children's rights (Verhellen, 2015).

Freeman (2012) has also argued that the CRC recognises children as both human becoming (Art 3) and human being (Art 12). But the Convention's approach to these Articles (children's participation and the best interest of the child) has been criticised for its primary concern about children's protection and provision (Hill and Tisdall, 1997; Theis, 2010). Commentators have found in the content of the CRC dominant conceptualisations of childhood which represent children as immature and in need of protection who are incapable of deciding their best interests (Archard, 2004; Cohen, 2005; Lockyer, 2008; Milne, 2008; Qvortrup, 2008) while Freeman (2009) argues that the best interests principle could be used in reinterpreting rights or constructing new rights and Alston (1994) describes the best interests principle as a 'mediating principle' for resolving the conflicts of other rights.

Liebel (2013a) reflects on the concept of the 'best interests of the child' as there is little guidance on how exactly the core principle of it should be interpreted and implemented. He thinks that, in practice, it depends on who has the authority to define this principle and how this authority is put into practice. He refers to van Bueren's (1998: 16) fundamental question: 'whether the best interest of the child is served by focusing exclusively on the child's welfare or whether children are entitled to participate in decisions affecting their own destinies' and replies that to take the latter case seriously, ways must be found for children to play a substantial role in the interpretation and invocation of their rights' (Liebel 2013a: 15).

Other weaknesses of the CRC have been reported as: referring to the age of the child rather than children's competence as a criterion thus limiting the choices enshrined in the Convention (Olsen 1992) and failing to justify child-adult difference in a better way (Hill and Tisdall, 1997) and ignoring certain categories of children i.e. LGBT, girls and street children (Freeman, 2000, 2009) and indigenous children (Libesman, 2007). According to Olsen, the Convention is silent about the concept of power and it is not competent in empowering children. Also, the Convention deals with children as 'unspecified, unsituated people; that it tends in fact to deal with white, male, relatively privileged children' (Olsen, 1992: 195). For instance, child soldiers are mentioned by the CRC but child marriage is not. This is while usually boys get involved in armed conflict and girls face child marriage.

Other typical arguments have been on the CRC as the human rights of the child or only as children's rights, and local or global application of the Convention. Burman (1996) has argued that the CRC could be interpreted in local, global and globalised ways. Cantwell (2011) has warned that ignoring CRC's 'substance of human rights of children' (p.42) and considering the CRC merely as children's rights can have implications such as ignoring fundamentals of human rights, i.e. by making children more equal than others.

Children's rights have become predominantly constructed as *individualised* rights for children. From an individualised perspective, children's rights might lead to dichotomised social relations

(Huntington, 2006) and direct the discussion on the social position of children in policy and practice at children (Verhellen, 2000; Smith, 2007). Also some have argued that children's rights should be essentially linked with human rights and should be considered as a shared responsibility between children and adults instead of a divided responsibility. This requires a joint engagement and dialogue for solutions for social problems in the life worlds of children, that should be considered as 'shared spaces' where children and adults can meet (Stammers, 2009; Reynaert et al., 2012).

The CRC has been challenged for reflecting western law and values and neglecting the non-western legal and cultural traditions (Boyden, 1997; Pupavac, 2001; Freeman, 2009). Jones and Walker (2011) discuss that, rather than addressing different needs of children across the world, the Convention adopts a universal representation of the child which is considerably influenced by white western values. In Liebel and Saadi's (2013a) view, Western discourse represents Mutua's (2002) image of human rights in which the civilised western state rescues the child oppressed by backward socio-cultural relations from the southern states' elites who refuse to implement children's rights.

In response to critics on western values, it has been discussed that there were representatives of the international community in the drafting and also it was ratified globally which shows it was not only representing western values (Kaufman and Rizzini, 2009). Also the national procedure of ratification and implementation allows the States Parties some degrees of flexibility for combining the Convention with their culture and traditions (Miljeteig-Olssen, 1990).

Although the CRC - the most widely ratified UN treaty - has become a globalised attempt in improving children's lives across the world (Myers, 2001) there have been doubts whether children's rights could be implemented globally or not. As previously mentioned in childhood theories, there is a continuum with one side as universalism and the other side as relativism towards childhood (James and Prout, 1997; Myers, 2001). CRC has been criticised for constructing 'new orthodoxies of children's rights' (King, 1997: 173) and 'homogenising children' through ignoring cultural pluralism and diverse childhoods in the South (Burman, 1994; Wells, 2009; Valentin and Meinert, 2009) while universalising western values and model of childhood (Boyden, 1997; Pupavac, 2001; Pattnaik, 2004). This 'unjust domination' of the discourse on children's rights has originated from the ethnocentrism of the politically and economically powerful countries (Boyden, 1997).

Some have discussed that children's rights should be universal just like human rights (Lopatka, 1992; Van Boven, 2002; Freeman 2009). As a commentator of universalism, Burman (1996: 62) has pointed to some of the weaknesses of relativism as follows:

*'If we commit ourselves to a purely local notion of childhood then we are subject to three kinds of dilemmas. First, we either adopt a moral relativist position or*

*we are positioned as imposing a colonial-tainted code. Second, it appears that we are positioned as having no choice either to collude with paternalism or with fundamentalism. Third, we are in danger of mistaking as authentic those traditional practices which are brought new life through acquiring an anti-imperialist meaning.'*

Some experts are standing somewhere in between universalism and relativism by taking the stance of cultural relativists (Alston, 1994; Freeman, 1995; Kaufman and Rizzini, 2009). Freeman is aware that sometimes cultural relativism might underestimate children's rights and Alston (1994) has suggested a 'margin of appreciation' which recognises harmful local practices such as child slavery as unacceptable. Among those who criticise universalism for ignoring diverse kinds of childhoods, Fernando (2001) also criticises relativism for encouraging some harmful practices and not addressing the structural factors affecting children's lives. He suggests a 'constructive dialogue' that does not fall into dichotomies of universalism and relativism. And Wells (2009) writes about 'pragmatic relativists' who try to mix global idea of children's rights with the politic, economic and cultural circumstances of children in the South. Kaime (2005) thinks that while attempts should be made for understanding the cultural practices and finding out solutions through consulting local communities, compatibility of those practices with the principles of the CRC should be taken into consideration.

Some have argued that the international children's rights regime has acted as a 'child-saver' (Wells, 2009) rather than a liberator, empowered western governments and provided them with intervention mechanisms to the South 'in the name of the best interest of the child' (Ibid) and institutionalised a paternalistic relationship between the adult North and the infantilised South (Burman, 1994; Valentin and Meinert, 2009; Pupavac, 2001). With regard to the universal way of treating children's rights, NGOs - which have been assigned a role in CRC's implementation (Miljeteig-Olssen, 1990) - especially INGOs have been criticised for helping the North maintain policies for neoliberalism that have worsened children's situation (Burman, 1994; Fernando, 2001; Wells, 2009; Valentin and Mainert, 2009).

Some have argued that due to the mentioned weaknesses, in addition to decontextualising children's rights (Marshall, 1997, cited in Reynaert et al., 2012) and ignoring the realities of children's lives and structural factors of poverty and discrimination, the CRC has not improved children's lives (King, 1997; Fernando, 2001; Pupavac, 2001; Wells, 2009). In response to them, Twum-Danso (2009) argues that CRC has operated in a hostile sociopolitical environment since its adoption. Polarised political conditions or instability have impeded the progress of implementation...and many children were born into conflicts and violence in some countries and the HIV/AIDS pandemic massively affected the lives of many children in the South (p.114). She also refers to Save the Children reports in diverse countries to show that CRC has improved children's lives, the Convention is incorporated in national legal framework and Children's Acts

or Codes in the South are introduced and IHRICs are established and concludes that (p.112) children's rights and human rights more generally are more visible in society than 20 years ago.

Khadka (2013) has argued that for targeting poverty and discrimination, CRC needs to prioritise the rights and put social rights in the first place and Fernando (2001) calls for a child-centred approach to distributive justice with the focus on analysing power relations and combining children's demands with other disadvantaged adults' which are mainly based on class and gender. Wells (2009) and Webb (2011) suggest that Universalist approach to children's rights should adopt a rights based approach by using the CRC and emphasising listening to children. Montgomery (2009) adds that policies should be based on children's own accounts of living in difficult circumstances. Some have suggested that children's rights based approach and a flexible approach to the CRC to tackling poverty should be mainstreamed into the wider context of general poverty that addresses all groups of society (Twum-Danso, 2009; Desmet and Aylwin, 2015; Mestrum, 2015).

In addressing the dichotomy of universality/relativism or legal/global approach to implementation children's rights, Burman (1996, p.62) suggests:

'1) ...[W]e can reconceptualise these debates to see the local and particular not as the opposite to the general, but rather as functioning in relation to it. We cannot ignore contexts of colonial histories which define *whose* experience and cultures are regarded as geographically local, marginal or peripheral, rather than as being the 'centre'.

2) At the level of practice, this is being addressed in terms of current recommendations to use national rather than international indicators in monitoring the CRC or to limit comparisons to those countries that share similar economic and social conditions (Boyden, 1993 cited in Burman, 1996)

3) Regarding the globalization of child rights, we need to differentiate this process from cultural imperialist forms. Nor need this leave the way open for a moral relativism, or an inability to determine what is appropriate within a particular cultural context. Acknowledging the power relations that enter into the production and interpretation of practices may not only relativize but also, when attended to in their specificity, can fix interpretation i.e. with regard to the best interest of the child.

4) In order to counter cultural imperialism and promote more useful forms of globalization a radical structural reorganisation of the definition and enactment of cultural goals is needed. Alston (1994) proposes the best interest principle can be regarded as a window on the relationship between culture and human rights and children's rights initiatives are surely vital for those interventions and analyses.'

### *Implementing the CRC*

The CRC's stress on universality, indivisibility of rights and the need for international collaboration for realising children's rights, in addition to its comprehensive and legally binding features, has made it a social contract that has never been seen before. Although the legal, legislative and policy reforms made by the CRC have led to improvements in children's lives locally and globally, still children's rights are violated and this shows the 'open ended' challenge towards their implementation (Verhellen 2015). 'Effective implementation of children's rights does not exist in a vacuum' (p.9) it requires dynamic facilitation by states and depends mainly on resources (Byrne and Lundy, 2013). It takes planning, organisation, policy work in addition to constant evaluation of the situation of children (Kaufman and Rizzini, 2009). This needs broad engagement of the international community and local groups e.g. NGOs, academics, professionals and decision makers (Miljeteig-Olssen, 1990; Williams, 2011).

As Freeman (1992b) argues, the importance of legislation as a 'symbol' (Edelman, 1977) cannot be underestimated, but the true recognition of children's rights requires implementation in practice. Indeed, unimplemented, partially implemented or badly implemented laws may actually do children more harm than good. Later on, he discusses that the lives of children will not change for better unless the obligations of the CRC are taken seriously by legislatures, governments and those concerned with children's everyday lives (Freeman, 1995).

Out of their comparative study of 12 countries across the globe, Lundy et al. (2012) have observed that 'there is no single route or a right way' to implementing the Convention. As childhood studies have shown the importance of critical thinking to children's rights and politics of adult-child relations (Mayall, 2015) and due to children's powerlessness and their unequal participation in decision making process, contextualised and bottom-up approaches to implementation of the CRC should be taken (Kaufman and Rizzini, 2009; Liebel, 2012; Hanson and Nieuwenhuys, 2013). Kilkelly (2011a) suggests on-going research and auditing of children's rights (not only when preparing the reports to the UNCCRC), in addition to taking legal proceedings including strategic litigation (i.e. taking cases to the EU court). Others have recommended a combination of measures for implementing including children's rights impact assessment, training and awareness raising, data collection, networking, child rights based budgeting, national strategies and action plans for children and young people (Byrne and Lundy, 2013).

Legal implementation of the CRC helps in protecting children's rights through giving the CRC legitimacy, making it hard to resist and influencing the attitudes towards children (Freeman, 2009; Lundy et al., 2012). Kilkelly (2011b) has observed the positive contribution of the CRC to law when incorporated nationally, in parts of Africa, Europe and Asia-Pacific. Different ideologies, conceptualisations of children and contextual factors lead to different approaches to incorporation of the CRCC even when political will exists (Williams, 2007). Lundy et al. (2012) have reported

that even in countries where the CRC is incorporated into the constitution (e.g. Norway) despite the positive changes to domestic law, there are still gaps in enforcement, monitoring and implementing of the CRC and the weakest parts of implementation have been in child budgeting and protecting the rights of the most vulnerable children. Incorporation of the CRC into law is not the end of nor the only way for realisation of the Convention (Kilkelly, 2011b). As the UNCCRC (GC5) has indicated, implementation, monitoring, enforcing and translating the law to practice is needed (Verhellen, 2015). IHRICs can have a role in incorporation through that translation (Williams, 2007) and finding innovative ways for strengthening the CRC's legal status (Kilkelly, 2011b).

'A review of state party reports and concluding observations [of the UNCCRC on those reports] indicates that implementation of legal standards remains the weakest area among the general measures of CRC implementation. For instance, the right to be protected from violence cannot be enjoyed in the absence of an independent, professional and child-sensitized judiciary which few countries have' (Vuckovic Sahovic, 2010: 9, cited in Liebel, 2013a). For effective implementation of the CRC, there should be a move from advocacy to mainstreaming children's rights in policies and institutions. In doing so, and with a human rights based approach, children's ideas should be taken into consideration (Myers, 2001; Thomas, 2007, 2011; Tobin, 2011). Mainstreaming of children's rights is deeply political (Koskenniemi, 2010) but it can compensate for the absence of children in drafting of the CRC by engaging them actively in follow-up of the drafting process (Miljeteig-Olssen, 1990).

Liebel and Saadi (2013a) assert that the CRC does not provide mechanisms for the enforcement of compliance for instance through an international court to impose sanctions against states in cases of breaches of children's rights. One of the greatest weaknesses of the CRC is its lack of effective enforcement mechanism (Balton, 1990; Verhellen, 1997; Fortin, 2009; Wells, 2009). It is hoped that the New Optional Protocol (introduced on 14<sup>th</sup> April 2014) which provides children to submit complaints to the UNCCRC if their state has ratified it could improve this weakness (Verhellen, 2015). Some have argued that the Convention's legally binding status is not affected by its 'Achilles Heel' due to the UNCCRC's monitoring mechanism and the States Parties' obligation to periodic reporting (Hill and Tisdall, 1997; Freeman, 2011; Kilkelly, 2011b).

Monitoring of the implementation of the CRC by the UNCCRC is comprised of three different activities: the reporting, the examination and the follow up. The States Parties are required to submit periodic reviews to the UNCCRC. The Committee reviews these reports and generates Concluding Observations (COBs) and then follows up of the implementation of these COBs (Doek, 2011). However, very little is known about the use of these Concluding Observations by states parties in their efforts to implementation the CRC. There is no systematic follow-up and/or method to ensure that the General Comments are taken into account (Doek, 2011: 106). This practice has also been criticised for not requiring an 'independent' report from the States Parties

(Hill and Tisdall, 1997), 5 years gap between the reports which makes the report only a ‘snapshot’ of the situation of children (Twom-Danso, 2009) and non-reporting and very late reporting by some of the States Parties, partly due to the growing number of international human rights treaties that oblige them to submit reports to the UN and insufficient sessions of the UNCCRC meetings (Doek, 2011). When monitoring, the place of children in society, changes to childhood and children’s policies should be taken into account (Qvortrup, 1996, cited in Verhellen, 1996).

It could be argued that the UNCCRC needs to revise its current guidelines for CRC reporting and produce manuals for the follow-up of its Concluding Observations. Effective monitoring is a multi-level process with the UNCCRC as the key actor that provides for meaningful participation of children in this process (Doek, 2011). Other child actors e.g. INGOs and national committees should have a role in monitoring, too and the New Optional Protocol (introduced on 14<sup>th</sup> April 2014) for communications procedure that provides children to submit complaints to the UNCCRC if their state has ratified it could also improve the monitoring process (CRIN, n.d.b; Verhellen, 2015).

### ***Obstacles to Implementation***

Implementation of the CRC needs socio-cultural and legal negotiation, political will and resources. The most frequently mentioned obstacles to children’s rights implementation could be categorised in three groups of economic, social and political issues (Clucas, 2003; Kilkelly, 2007; Kaufman and Rizzini, 2009). Children’s access may be limited by government spending and poverty (Freeman, 1992b, 1993; Tisdall et al., 2006) and lack of economic power of the children themselves (Kaufman and Rizzini, 2009). Freeman (1992b) sees little point in creating an improved legal framework for the rights of children unless resource allocation is addressed, and redressed. Liebel and Saadi (2013a) discuss the fact that, globally, children’s rights are not important in the expenditure priorities of governments as aims and pressures unrelated to their rights determine governments’ budgets.

There have been some ‘conceptual anomalies’ including the ambiguity of the concepts of children’s rights and children’s welfare (Burman 1996: 53) and invisibility of children (Kilkelly, 2007). Some of the States Parties in the South have also claimed that the CRC has not been compatible with their cultures as it is Euro and ethnocentric (Fernando, 2001). Boyden (1993, cited in Burman, 1996) has reported that most of the first countries to ratify the CRC have shown the least intention to implement it.

Existing legal mechanisms to make authorities responsible for the protection of all children are not used properly, mostly as a matter of awareness among the public (Children’s Rights Alliance for England, 2010, cited in Jones and Walker, 2011). For participation rights, the prospect for a ‘timely and meaningful implementation could, arguably, even have diminished in the face of wider societal changes in which decision-making centres importantly affecting lives of children

are increasingly remote and out of the reach of local or national democratic processes' (Liebel, 2013a: 27).

Liebel and Saadi (2013a) assert that rule of law and accountable governmental institutions heavily impact on the implementation of children's rights. However, in many countries, they are limited or totally absent. Liebel and Saadi (2013a) present an example in which owners of positions in government take advantage of international funds provided for advancing the lives of children who are affected by AIDS. Problems exist in law and policy, gaps in information and training, lack of services and support, government bureaucracy and lack of coordination between statutory and non-statutory child actors (Fernando, 2001; Kilkelly, 2007). In multi-level governance, challenges are even worse with more violations of Article 2, complicated process of reporting and monitoring, more difficult national co-ordination and complexity of accountability of the state (Williams, 2011).

The Convention's practical limitations could be also added to the obstacles of implementation: UNCCRC's lack of a framework for measuring children's rights when monitoring the States, general formulations of the Committee's comments which makes defining criteria for implementation problematic and silence about the consequences of non-compliance with the obligations of the CRC for the States Parties (Burman, 1996; Smith, 1998). Despite all the criticisms, the CRC is a human 'achievement' (Thomas, 2014: 36), a 'hard-won consensus' (Cantwell, 2011: 42) and a 'momentum of concern' for children (Miljeteig-Olssen, 1990).

## **2.6. Participation**

Lansdown (2010) states that, as the CRC has become the crucial conceptual framework to think about children, uncritical endorsement of the restricted notion of participation in its Article 12 (the right to be heard in decision-making) should be reflected on. Liebel (2013a) believes that 'the half-heartedness and ambiguities of the CRC's definitions of participation express the great reservations that many official state representatives who participated in the final drafting of the CRC had towards strengthening the children's social status and reveal that compromises were needed' (p.17). Alderson (2008) adds that the participatory rights of children in the CRC are limited to being consulted and influencing decision-making, which narrows down the concept of participation from doing to talking. Additionally, it poses the risk of muting children's participation in the economic and the political (Lansdown, 2010).

Among the other Articles of the CRC, Article 12 is mostly known as participation Article, some experts point to it as child's voice and consider a combination of Articles as participation rights (e.g. Articles 5, 13-17 for Parkes (2013) and Articles 13-15 and 17 for Tisdall (2015). Cantwell

(2011) argues that Articles 9, 23 and 31 contain the concept of children's rights to participation while they are not referred to as participation rights.

Article 12 of the Convention on the Rights of the Child provides:

*"1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*

*2. For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law."*

Parkes (2013) has argued that GC12 has proved helpful in implementation of Article 12. Unlike her, Cordero Arce (2012) thinks that GC12 downgrades children's participation to the right to be heard by assuming a protected and institutionalised model of hearing children's voices and putting the judgement on children's age and maturity in adults' hands.

Article 12 is criticised for being ambiguous about childhood (Oswell, 2013), ambivalent about children's capabilities (Lee, 2001), giving 'due weight' to children's voices (Tisdall, 2015) and being a right of 'involvement' rather than 'formal political engagement' (Tisdall 2010: 327). Article 12 is not radical enough for recognising children's self-determination and merely 'considering' them in decision-making (Percy-Smith and Thomas, 2010; Cordero Arce, 2012; Tisdall, 2015) and referring to Article 15 might be better for children's participation as it is more radical (Thomas, 2007; Tisdall, 2015).

As aforementioned, Article 12 is considered to be in contrast with Article 3 as it overrides children's voices in decisions concerning them (Invernizzi and Williams, 2008; Milne, 2008; Tisdall, 2015) but according to Parkes (2013), the UNCCRC finds an 'interrelationship' between Articles 3 and 12 meaning that children's best interest is in their voices being heard and when they are heard, better decisions can be made about their best interest.

Article 12 has been criticised for bringing together age and maturity, therefore limiting children's participation (Thomas, 2000; Archard, 2004; Kellett, 2009a). However, Parkes (2013) stresses dual criteria of age and maturity. Lansdown (2007, 2008) and Hammerberg (1990) also suggest interpreting Article 12 in conjunction with Article 5 (evolving capacity). Evolving capacity can be considered as a developmental, emancipator and protective concept (Lansdown, 2005) which can play a role in assessment and justification of how, when and why participation should happen (Cantwell, 2011).

In order to address the critics to childhood studies and the CRC's principle of evolving capacity (Articles 5, 12) Capability Approach (CA) suggests a contextualised approach that considers differences in individual children. In this approach, capacity is internal capability while capability

is defined as opportunity to act or decide. CA might be effective in addressing the potential tension between the welfare and emancipation approach (Bonvin and Stoecklin, 2014; Clark and Ziegler, 2014; Liebel, 2014).

Verhellen (2015) defends Article 12 by discussing that it has a key role in the representation of children as meaning-maker subjects by the CRC. He also asserts that 'due weight' implies that children should be considered as competent unless it is proven not true. He adds that adults and the State can decide on children's behalf only if they are proven to be incompetent. Article 12 is a radical challenge to traditional attitudes (Lansdown, 2001). Article 12 recognises children as agents (Freeman, 2012)

### *Participation Theories*

Both the CRC and childhood studies have played a significant role in recognition and promotion of children's participation in social and political life. But, neither the practice of participation nor its conceptualisation have been straightforward (Fitzgerald et al., 2010; Woodhead, 2010). In the 1990s in relation to participation, the main focus was on the necessity and benefits of children's participation, but gradually that approach was criticised as reductive and limited. Although in the early 2000s some improvements were seen in acknowledging child's voice and consulting the child (Sinclair, 2004), commentators believed that there was still a long way to recognition and listening to children (Kellett, 2009a). Later, there were discussions and reflections on 'meaningful' participation, different forms and typologies and barriers to implementation children's participation. There were also debates especially in academic circles on problems of theory and implementation, impact of participation on children, policy and even adults (Crimmens and West, 2004; Taylor and Percy-Smith, 2008; Cockburn, 2010; Tisdall, 2015). There were also criticisms of 'consumerist notions of participation' (Tisdall et al., 2008; Cockburn, 2010) and the neo-liberal approach to children's participation that views children as future goals and investment (Willow, 2002; Barnes et al., 2007; Fielding, 2008).

As Cordero Arce (2012: 379) puts it, 'the child's' participation is a protected participation, dependent upon the adults 'responsible' (Article 3) for the child. 'The child' does not seem to respond for herself, at least not now; she is just being prepared, through formal education, to become responsible (Article 29). Liebel (2013a) points to case studies from the majority world that show how the specific conception of participation underlying the CRC can limit the potential for empowering children. Paternalistic and child saving approaches to participation are also criticised by Wyness (2001), Franklin (2002), Mayall (2002), and Cockburn (2005). Franklin (1986) criticises the CRC's lack of promotion of children's participation through political rights and Archard (2004) identifies the crucial rights in question as those to vote, work, own property, choose one's guardian and make sexual choices. He especially argues that to be a citizen one should have the right to vote. Commentators also argued that children's formal (public)

participation i.e. Youth forums or school councils were in the form of isolated structures and process, adult led and reproducing adults' governance structures. Some of them were even one-off events that children were only consulted without effecting any changes (Hill et al., 2004; Sinclair, 2004; Tisdall and Davis, 2004; Theis, 2010; Cockburn, 2010) and lack of research on the implementation of participation was felt (Kirby with Bryson, 2002).

New opportunities could arise toward the improvement of the position of children in community and society if their participation was understood as not only consisting of being heard and having a voice, but also as taking part in vital economic and political processes (Liebel, 2013a). Wyness et al. (2004) argue that, in relation to realisation of children's participation, engaging in important political and economic activities are excluded. While participation could be individual (Court, Surgery) or collective (public: councils, forums) (Cockburn, 2013) and participation could be social or political (Thomas, 2007). Percy-Smith and Thomas (2010) point out that the individual participation of a child in regard to 'having a say' is a more dominant conceptualisation of participation, as opposed to the social engagement of children in public decision-making.

As aforementioned, 'voice-focused' and 'child-focused' approaches to children's participation in theory and practice were criticised in the 2000s (Tisdall, 2008). Kellett (2009a: 238) discussed that 'much of child's voice is not expressed in words - least of all adult words - and the rich tapestry of their non-verbal communication frequently goes unheard' and that voice is not a gift given to children by adults (Hamill and Boyd, 2002; Kellett, 2009a). Commentators of the discourse of 'child's voice' (Lundy, 2007; James, 2010; Mannion, 2010; Woodhead, 2010) started calls for reflections on understanding of children's participation and its purpose (Cairns, 2006; Percy-Smith, 2006; Thomas, 2007). Critics of the 'voice' discourse said there is need for 'discursive spaces and child friendly spaces (Wyness, 2006; Kellett, 2009a) and 'voice' should be regarded as a 'metaphor for political recognition, self-determination and full presence in knowledge' (Thorne 2002: 251).

To get beyond the focus on voice, a dialogic approach to children's participation is recommended (Fielding 2007) which implies that children's participation emerges from mutual interdependencies, recognition and respect for children's diverse views (Smith, 2002; Fitzgerald et al., 2010). This approach to children's participation is needed for engaging children and policy makers in a dialogue (Cockburn, 2013).

A number of criticisms have been about 'selective' participation of children (Tisdall and Davis, 2004; Thomas, 2007) and 'top-down' initiatives (Badham, 2009). There have been also spatial comments on participation (Lee, 2001; Gallagher, 2006; Mayall, 2006, Moss, 2006; Fielding, 2007) and post structural critiques (Cooke and Kothari, 2001; Kesby, 2007). As Mannion (2010) has written, spatial critiques found the idea of children's own spaces of participation unrealistic and post structural critiques were mainly focusing on Foucauldian analysis of participation

activities to emphasise the fact that participation is ‘dialogical, partial, situated and contested’ (p.339) with marginalised groups of children in the Global South.

Attempts to improve the participation of children in decision-making in institutions or elections are limited by political and economic power transfers which are beyond democratic control. Therefore, these interventions only result in children’s improved participation in ‘arenas that either from the beginning have only limited influence or that currently face important decreases in influence’ (Liebel and Saadi, 2013a: 119).

Children’s participation is still under-theorised, but there have been discussions on how it should be conceptualised, practiced and studied. Theorists have emphasised context, child in community and effectiveness of child’s voice (Tisdall, 2008) and applying social, political and development theories for theorising children’s participation (Tisdall, 2010), in addition to basing participation on dialogue instead of difference (Kulynych, 2001; O’Kane, 2003; Percy-smith and Weil, 2003; Moss, 2006; Fitzgerald et al., 2010).

Lansdown (2010) has recommended consultative, collaborative and child-led forms of participation and Tisdall (2014, 2015) and Austin (2010) have written about benefits of transformative participation. Wyness (2012) has discussed that children’s participation should include children’s economic contributions in their communities as well as their discursive contributions and Tisdall (2008, 2014) has stressed political mobilisation, emancipation and more challenging of age discrimination in children’s participation. It has also been stated that children’s participation should be about their everyday lives and their present time childhood, not only for preparing for the future. Also, it should be linked to adults’ activities and accompanied with sustainable systems for children’s participation (Hill et al. 2004; Taylor and Percy-Smith, 2008; Austin, 2010; Cockburn, 2010). Furthermore, Mannion’s (2012) research found that it is unlikely that a new generic national framework would be taken up and used by organisations without substantial local adaptation.

Children’s participation should take inclusion as an aim, inform the participants and give them choices and chances of negotiating power, values and principles (Mannion, 2010). Percy-Smith and Thomas (2010) suggest that in order to promote participation, building it from the grassroots should be supported, participants’ capacities should be built as active citizens and interpretations of participation should go beyond ‘having a say’ in making decisions. Despite all the attempts in theorising participation, there is no particular approach to children’s participation that is guaranteed to succeed. Creating space for children’s participation is time consuming and needs hard work, resources, flexibility, innovation and attention to contexts (Shier, 2001; Theis, 2010) paternalism (Parkes, 2013).

### *Participation Models*

According to Hinton (2008) participation models (typologies) were introduced for categorising different forms of participation and translating CRC into meaningful practice (Kellett, 2009b). Hart's (1992) ladder of participation was based on Arnstein's (1969, cited in Hart, 1992) work on measuring empowerment and presented degrees of participation, ascending up from manipulation to child-initiated processes. Hart (1992) refers to the first three rungs on his 'Ladder of children's participation' – 'manipulation', 'decoration' and 'tokenism' – as non-participatory, and describes four further rungs – 'assigned but informed', 'consulted and informed', 'adult-initiated, shared decisions with children' and 'child-initiated and directed' – before the top rung of the ladder – 'child-initiated, shared decisions with adults'. Some (for example, Pridmore, 1998) have found it to be a powerful evaluation tool. Others (for example, Reddy and Ratna, 2002, Cited in Kellett, 2009b) criticise the implicitly sequential nature of the model. John (1996) asserts that Hart's ladder grants rights to the powerless and passive child by the powerful adult in an outdated way. A further criticism of Hart's ladder is that its structure implies a 'hierarchy of values' (Hart et al., 2004: 48, cited in Kellett, 2009b) which is likely to lead to participation activities being unfairly and misleadingly judged against particular levels. Hart's ladder was referred to as 'simplistic' (Woodhead, 2010) and 'rhetorical' (Mannion, 2010). It was criticised for assuming a highest level for children's participation and a linear movement from a lower rung to a higher one in the process (Reddy and Ratna, 2002 cited in Kellett, 2009b) and ignoring adults' lack of skills in enabling children's participation (Hurd, 2011).

In an attempt to improving Hart's model, Treseder's (1997) model of participation takes the top five levels from Hart's ladder but arranges them in a circle, demonstrating that they are different, but non-hierarchical, forms of good participation. Shier's (2001: 110) 'pathways to participation' suggest different levels of children's participation in a range of organisations through which children are listened to, supported in expressing their views and their views are taken into account. Children get involved in decision-making processes and share power and responsibility for decision-making through these pathways. His participation model (2001) focuses more on the adult roles than the states of children within projects. From the lowest level - children are listened to - to the highest - children share power and responsibility for decision making- Shier frames questions for adults to consider when planning or evaluating participation projects around 'openings', 'opportunities' and 'obligations'. Shier places emphasis on the collaboration of adults and children for effective participation (Kellett 2009b), but does not consider that each initiative or task cannot be assigned a single level of participation when, in reality, levels of decision-making power constantly shift within projects and within tasks (Kirby and Gibbs, 2006).

These models have been more dominant, but have been silent about power relations in child participation. Lundy's (2007) model has four key elements: space, voice, audience and influence. She argues that children must be given the opportunity to express a view, and must be facilitated

to express their views, which must be listened to and acted upon, as appropriate, and they should also be given the chance to follow up on the impact of their voices. Lundy's model conceptualises the distinct facets of Article 12 in a legally sound yet user-friendly format. It is offered as a potential model for informing understanding, developing policy and auditing existing practice. Lundy's model takes into account the power dynamics and advocates features beyond the voice i.e. space, audience and influence (Mannion, 2010). It is designed in criticising the 'fixation on voice' (Tisdall, 2008). Her model spatialises participation and helps in analysing effective factors on children's participation impact on policy, provides a good understanding of power and stresses, relational dimension of adult-child collaboration and the supportive role of adults (Mannion, 2010; Crowley, 2012). Kellett (2009a: 238) finds Lundy's model is a very helpful perspective because 'it depicts an explicit chronology for voice and highlights the inefficacy of voice operating in a vacuum'.

In addition to these models, which have been more dominant, there have been Lansdown's (2001), Johnson's (2011) and Larkins' (2011) models. Lansdown's (2001) model assesses decision-making structures, capacity for change, time-scale and competing interests. Johnson's (2011) model points out four dimensions of power in children's participation as the power over, to, with and within, and indicates agency, collective power and personal self-confidence (Chambers, 2006, Tisdall, 2015). Johnson's model is inspired by Lukes' (2005) analysis of power. Larkins' (2011) participation wheel points out strategies to increase participation i.e. empowerment, space, feedback and dialogue and evaluation.

### ***Impact of Participation***

As previously mentioned, some experts criticised the practices that had low impact and were not based on evaluation of the impact of children's participation (Badham, 2004; Partridge, 2005; Davis and Hill, 2006; Davis et al., 2006). Stafford et al. (2003) warned that children were becoming disappointed at tokenistic consultation which would not change anything for them. In order to study and improve the impact of participation, Lansdown (2004) calls for indicators to measure and evaluate participation and addresses the dimensions for studying that as scope, quality and impact of the participation project.

Kirby et al. (2004) cited in Crowley and Skeels (2010) suggest the following dimensions and indicators of change for assessing the impact of children's participation:

- 1) Impact on services, policies and institutions; suggested indicators:
  - Children's inputs leading to improved laws, policy and practice
  - Improved structures, policies and resources
  - Mechanism for involving children
- 2) Impact on social and power relations, suggested indicators:
  - Enhanced dialogue and support between children and adults

- Children having greater self-efficacy
- 3) Impact on children's personal development and well-being, suggested indicators:
- Improved well-being of children
  - Children 's enhanced critical thinking

Good participation has benefits for children's education and employment (Kirby with Bryson, 2002) and improves their confidence (Percy-Smith, 2007). Those who believe in mutual interdependencies of children and adults (Crowley, 2012) and proponents of adults' supportive role in children's participation (Thomas, 2007; Shier, 2010) discuss that adults' understanding and communications skills (Hurd, 2011) co-evolve alongside children's skills and child-adult relations (Cockburn, 2010; Thomas, 2010). Therefore, good participation transforms children, attitudes of adults and society (Shier, 2010; Tisdall, 2015) and empowers both adults and children. This empowerment could be considered as social construction of children's and adults 'relational agency through intergenerational transactions' (Kesby, 2007; Mannion, 2010). Participation can be empowering if children have access to information and decision makers, have a choice in whether and how to take part, and are supported by an independent adult whom they trust (Hodgson, 1995, cited in Treseder, 1997). In participation, children should be empowered to shape the process and outcome (O'Kane, 2003) and have access to sources of political power to challenge the oppressive authorities and structures (Lansdown, 2006).

What is meant by power in this thesis is based on Foucault's conceptualisation of power as productive and relation that can be exercised over rather than possessing power and as a situation where the actions of participants and structures influence each other. So, their power is 'co-dependent' on each other rather than being 'mutually exclusive' (Gaventa and Cornwall, 2006; Gallagher, 2008; Mannion, 2010).

In improving the impact of participation and for furthering theories of childhood, application of political theories e.g. governance has been suggested (Theis, 2010; Tisdall, 2010). For child participation, based on the 'positive-sum' feature of power (Lukes, 2005), mutual empowerment of state and society - especially children – could be developed. It can be considered as a conceptual device and a political opportunity for social transformation and political democratisation. The key to mutual empowerment is developing appropriate mechanisms for interaction between state and children (Wang, 1999).

In supporting children in governance, they should be involved in the auditing of government services and reviewing policies. These activities are opportunities for collaboration between children and decision makers (Theis, 2010) and mutual empowerment and on-going dialogue. Children could also be included in policy networks which are a means of categorising the relationships that exist between groups and the government. Policy networks occur when there is an exchange of information between groups and government (or between different groups or parts

of the government and this exchange of information leads to the recognition that a group has an interest in a certain policy area (Smith, 1997 cited in Tisdall and Davis, 2004: 132). In these networks, children should be regarded as ‘core insiders’, not outsiders. Core insiders are able to bargain and exchange with policy makers over a range of issues (Maloney et al., 1994, cited in Tisdall and Davis, 2004: 133). As Tisdall and Davis (2004) discuss, the State and children should be able to persuade each other in regard to the follow up of activities and progress in relation to the enjoyment of children’s rights.

### *Citizenship*

Ennew (2008) criticised the CRC for being ‘slow’ in considering children as citizens and paying attention to their political activities and potentials. Inadequacy of children’s right to citizenship in the CRC has been identified by other commentators (Kilkelly and Lundy, 2006; Kjørholt 2008; Cockburn, 2013). Some experts believe that CRC has provided children with citizenship (Williams and Croke, 2008; Van Bueren, 2011); however, to remove the obstacles, Van Bueren (2011) suggests general comments of the Committee are needed (e.g. GC on Adolescents Right) and a communication procedure under the CRC, and Williams and Croke, (2008) put stress on the effectiveness of the monitoring and reporting process of the States Parties.

According to Cockburn (2013: 226) ‘until very recently children were considered ‘non-citizens’ and had not appeared in discussions about citizenship theory other than in the context of citizenship education (Also Kjørholt, 2008). While proponents of children’s citizenship (e.g. Jans, 2004; Invernizzi and Milne, 2005; Liebel, 2008) have contributed to theorising children’s citizenship, there has been some debate about the extent of children’s citizenship and the rights provided by that for children (Stalford, 2000; Lister, 2007; Tisdall, 2010). Essential features of debates on children citizenship are inclusion and exclusion (Prout 2005). Commentators of classic definitions of citizenship (i.e. Marshal, 1950) and neo-liberal conceptualisation of citizenship believe that there is no need for citizenship to rely on independence, rationality and difference which lead to exclusion of children (Hill and Tisdall, 1997; Moosa-Mitha, 2005; Clutton, 2008). Adults’ ideas on children’s protection and their capacities were identified as factors leading to exclusion of children from citizenship (Lansdown, 1995; Wyness et al., 2004). Cockburn (2013) added children’s lack of social recognition, perceived passivity, constant marginalisation and devaluation of their activities as other constraints to their citizenship. According to Kjørholt (2008) as children have been excluded from citizenship due to lack of participation rights, their civic and social participation has been known as an important part of children’s citizenship (Therborn, 1993).

In order to include children in children’s citizenship, there have been attempts in changing conceptualisation of citizenship (Hart, 1992; Cockburn, 1998; Roche, 1999) and/or approach towards childhood (Lee, 2001; Cockburn, 2013). Hill and Tisdall (1997) suggest that ‘perhaps

there can be different kinds of citizenship, such as social citizenship, which are not dependent on also being political or civil citizens' (p.259) and Cockburn (1998) states that changing the way citizenship is understood can help in including children. Jans (2004) called for a 'child-sized' citizenship (with playful and ambivalent forms of participation) as a dynamic process rather than a standard set of rights and responsibilities, in which children can actively participate in a society in which children and adults are interdependent. Definition of citizen as an active agent who is a 'stable, rational adult' (Mannion 2010: 333) is challenged by Lee (2001) who believes both adults and children are human becomings. Therefore, dichotomies of children and adults are interrelated rather than being distinct (Alanen and Mayall, 2001). Moosa-Mitha (2005) wrote about a 'difference-centred' citizenship for children as 'differently equal' members of society.

While Young (cited in Cockburn, 2013: 230) calls for a 'differentiated citizenship' which is based on 'agreed, overarching, universal principles premised on equality', Cockburn (2013) is concerned that 'differentiated citizenship' might reinforce children differences from adults and lead to their even less involvement in socio-political affairs. Bacon and Frankel (2014) think children should experience citizenship in structures which are not directed only by powerful adults and Mitchell (2015: 177) calls for a trans-disciplinary approach towards children's citizenship which is capable of managing 'complexity in local/global contexts; non-academic partnerships; a focus on marginalised populations; application of indigenous frameworks; and multiple disciplinary methodological and paradigmatic perspectives'. And Cockburn (2013) points out that in today's globalised world citizenship should be considered as containing multiple levels of local, national and supra-national.

One of the most effective ways for moderating child-adult power relations seems to be the full engagement of children in affairs related to them. This implies that IHRICs should try to find ways of implementing the CRC and putting pressure on decision-makers, which are, at the same time, empowering children's participation. In this way, the sociology of children's rights can help these institutions to strengthen the emancipatory approaches and resist patriarchal and welfare culture with the help of their powers and mandate. Special attention should be paid by IHRICs to empower children toward an active participation in legislation and policy work.

## **2.7. Discussion on Children's Rights**

As aforementioned, approach to children's rights should not be based on the most widely used dichotomy of child-adult, which is a theoretical instrument (Desmet et al., 2015). As Adrian James (2010) points out as a matter of the dichotomies and under-theorized status of the field of childhood, a disagreement has emerged among childhood studies and children's rights studies, and has made their relationship problematic. This disagreement has been on children's rights status in the South and children's agency in the North. There is also ambiguity towards autonomy and independence of children (James et al., 1998; Percy-Smith, 1999; Prout, 2000; Jans, 2004),

but children's agency must be balanced by their dependency; and in many institutions in which children exercise their participation rights, they are interdependent with others (Smith, 2007; Oswell, 2013).

Although childhood studies itself emerged from the nature vs culture dichotomy (Prout, 2005) and dichotomies are helpful in comparing structural and theoretical concepts, they obscure the complexities and simultaneities. It is now time to move beyond the dichotomies and take cultural politics of childhood into consideration (James, 2010). We should integrate the concern of those studying childhood in the North with differing issues of those advocating for children's rights in the South. Instead of creating false dichotomies, we can take into consideration a more complex and relative approach to rights that combines diversities of childhoods (age, agency) and structural commonalities of childhood (gender, policies, economy, institutions). This has important implications for researching policies and practices in relation to children (Morrow, 1999; Roche, 2005; James, 2010).

In addition to taking into account the interdependencies and interrelations of child-adult, structure-agency, change-continuity and local-global, child rights studies needs critique (Evans, 2005; Stammers, 2009; Alanen, 2011), should be context specific, interdisciplinary and emancipatory (Liebel, 2012; Hanson and Nieuwenhuys, 2013; Desmet et al., 2015). The approach to rights as a work in progress calls for a dynamic development of rights, which has two dimensions: 1) interpretation and specification of the children's rights that already exist and 2) a translation of their perspectives into rights not yet codified. Liebel and Saadi (2013a) argue that this approach to rights needs to reflect on those involved in interpreting and creating rights, the social issues around these processes and the power relations and resources of different actors.

Based on the aforementioned criticisms to the CRC, there have been disagreements on the settlement of the substance of the CRC (Clucas, 2003) and some have emphasised the importance of both the content of the text and the style of its implementation for impacting children's rights (Boyden, 1997; Myers, 2001). Some have called for revision of interpretations of the CRC (Invernizzi and Williams, 2011) and some have claimed that the content should be renewed, as both in the North and the South many changes have occurred in children's circumstances e.g. technological and medical developments, definition of the child and globalisation (Boyden, 1997; Veerman, 2010).

Freeman (2009) notes that there is no evidence that children participated or had any real influence in drafting the CRC. Eekelaar (1992: 233) questions 'whether it is enough to ensure that the Convention itself is soundly based on a defensible concept of children's rights? Has the adult world merely met together and given children a package which adults think is good for them? How are we to know if children want the rights which the Convention gives them? They may want more, or different rights. Very importantly, they may believe that their protection is

imperfect: that the 'direction' given by adults in their exercise of these rights is no longer guidance but obstruction'. Cordero Arce (2012) makes a similar point: that when children's rights are conceived and administered by adults, their rights will suffer the limitations of that adult conception and administration; for example, in many education projects, which are administered by adults for children.

Federle (1994) also rejects the approach to children's rights which does not empower them to challenge existing hierarchies but empowers adults to interfere in their lives. Cordero Arce (2012) asserts that children's rights discourse as enshrined in the UNCRC and its implementing system is 'at best, ambiguous with regards to children's voices - ambiguity which in any case must be sorted out by the adults - and at its worst, reinforcer of children's dependencies and straightforwardly disempowering, completely muting them. Now is the time to return to the voices of children' (p.395) and write a theory of children's rights, with children (Cordero Arce, 2015).

Hanson and Niewenhuis' (2013) concept of children's living rights highlights that children make use of the notions of rights and shape them according to their social world. Hanson and Niewenhuis challenge the idea that children's rights are exclusively those defined by international institutions or states and 'look at children's rights as a 'living practice' shaped by children's every day concerns' (p.8). The notion of children's living rights creates a critical distance that facilitates study and evaluation by offering empirical investigation of how co-existing, non-hierarchical forms of children's rights influence a given social arena.

Ennew (2002) also speaks of the 'unwritten rights' of children besides the codified rights that are based in international treaties or national legislation. She explains that 'unwritten rights' are thought of or created and requested by children or adults. These are some examples of children's rights as voted for by children:

Many self-help groups of children e.g. street children in India have gone beyond the CRC and defined the rights which they consider to be appropriate for their lives. A participatory project carried out by the Children's Commissioner of Munich, asked children to name additional rights that were important to them. Responses included: the right to have one's own friends and to choose them oneself; the right to participate in political debates, and the right to taking decisions; the right to pocket money as well as the right to good and clean food and drink. In another project, in a primary school in Barcelona, 5 and 6-year-old girls and boys listed the rights they would like to have as the right to have friends, get angry, sing, cry, kiss or not to kiss, be different and make mistakes (Liebel, 2013c).

In going beyond the CRC, children's autonomy should be respected and they should be allowed to take risks and make choices (Freeman, 1992b). Liebel (2013b) notes that emphasis should be put on a concept of children's rights that sees their rights as human rights in the hands of children and as a means of reinforcing their social position and extending their scope of participation.

Elsewhere, he writes that as a result, children could demand and contribute to modifications or expansions to the rights available to them and where necessary, replace them with better and more appropriate rights, and so a localising rights approach may be applied to children's rights (Liebel, 2013a).

Mary John (2003) proposes to add a fourth 'P' to the traditional 3 'P's of the UNCRC (provision, protection and participation) which is the 'P' of power: 'the 'fourth p' is about realising aspirations which can only be self-defined' (p.46). Cordero Arce (2012) supports John's proposal. He believes that children's participation cannot substitute power, as adults would be the ones defining the power given, as well as those children who should be given the power. Power can take participation one qualitative step ahead. Rights, as power, must originate in children, by them and from them. It is upon children themselves that children must rely to construct the norms and principles that will foster their human dignity.

Going beyond a legalist interpretation of children's rights and rejecting the focus on 'rights on paper' requires an understanding of politics and law that is not fixed on states and the legal system, but that regards human rights and law as the constantly alterable result of social struggles and movements (Liebel and Saadi, 2013a). James and James (2004) argue that the recognition of new rights always involves a dialogue between culture and law. Although the precise dynamics of this relationship are not always clear, they are reflexively and temporally bound and bounded - they change over time alongside the social structures and institutions they define and produce. So does the nature of childhood. In this respect, the UNCRC marks only the beginning in the process of changing the cultural politics of childhood.

'The Convention is a remarkable achievement. But it is a beginning and not a conclusion to the quests of the last 100 or so years' (Freeman, 1992: 5). 'The growth of Ombudspersons (Flekkoy, 1991) or Commissioners (Newell and Rosenbaun, 1991) has drawn attention to the need, barely recognised in the Convention, for different techniques of children's advocacy' (Jones and Welch, 2010: 5) and the empowerment of children and this development has been explicitly encouraged by the UNCCRC in its General Comments (Parkes, 2013). Although going beyond the CRC has been discussed mostly on paper and in theory rather than in action, IHRICs seem to have an important effect in this regard; by considering children's rights as 'in-progress', in addition to the role of those in the process, these institutions are capable of introducing and helping in the implementation of living/unwritten rights of children that have been created by children for children.

## **2.9. IHRIs and IHRICs**

### **2.9.1. IHRIS**

Independent Human Rights Institutions (hereafter IHRIs) are independent institutions with duties and powers to monitor and protect human rights. These national bodies are somewhere between state and non-state actors and aim to ensure that governments respect human rights both in theory and in practice. They have three main functions: monitoring and advising of state authorities, the promotion and provision of human rights education and handling complaints on alleged human rights violations (De Beco, 2013).

IHRIs are usually called Ombudsmen or Commissioners and are characterised by a high degree of differentiation in organisation, function, legal regulations and even name: the Swedish ‘ombudsman’ (gender-neutral) is used as the worldwide synonym for this type of institution in English (Dunser, 2009: 174). The word ‘Ombudsman’ often means an institution that advises, assists, acts as a mediator and provides information about rights and functions as their implementer in the relationship between a complainant and an authority (Pajuoja, 2009: 93).

According to OmbudsToronto (n.d.), in the ancient Muslim world, Mohtasib had the authority to ensure that officials were acting correctly and morally, that customers were not cheated, and to offer resolution of disputes. Later on, the concept was developed in the Islamic law of the Ottoman Turks as Qazi’ul’Quzat (‘judge of judges’). The Swedish King Charles XII learned about it and in 1713 created the Office of the Supreme Ombudsman to make government administrators more accountable. In 1809, an Ombudsman was established in the Swedish Constitution - linked to Parliament. It was designed to be a supervisory agency independent of the executive branch of government, charged with the responsibility of protecting the rights of the people. The word Ombudsman means representative in Swedish.

Finland (1919) and Denmark (1954) followed much later and the office remained for a long time, a Nordic particularity (Oosting, 1995). Nowadays, there are Ombudsmen for children, patients, minorities, people with disabilities, nature, animals, customers, and clients of insurance or tourist agencies (Dunser, 2009).

The idea of establishing national bodies responsible for the implementation of human rights (NHRIs) is almost as old as the UN (1946, the UN Economic and Social Council). However, nothing was undertaken with regard to NHRIs for three decades (De Beco, 2013). Only in the 1960s and 1970s did the establishment of Ombudsman institutions begin in other Western democracies (Dunser, 2009).

Later on, in 1991, at the first International Workshop in Paris, a draft of basic guidelines known as the ‘Paris Principles’ (see Appendix 1) for the status and functioning of NHRIs was produced.

In 1993, the World Conference on Human Rights in Vienna recognised the importance of creating NHRIS in accordance with the Paris Principles in order to provide international minimum standards (De Beco, 2013). Since then, the establishment of independent NHRIs that comply with the Paris Principles became an integral part of the implementation of human rights (Doek, 2008).

According to the Paris Principles, six characteristics are essential for IHRIs: independence guaranteed by statute or constitution; autonomy from government; multi-member commissions, a broad mandate based on universal human rights standards; and adequate resources and powers of investigation (The Office of the High Commissioner for Human Rights, 2007).

Independence, as De Beco (2013) puts it:

‘... requires that IHRIs be free from governmental interference. This has a triple meaning under the Paris Principles. First, IHRIs should be functionally independent. To guarantee this, they should be established by a constitutional or legislative text. They must also be able to choose their own staff and to determine their priorities. Second, IHRIs should be personally independent. This means that their members should be able to act in a pressure-free environment and be appointed (and, if necessary, dismissed) according to a fair and clear procedure. Third, IHRIs should be financially independent. They must have sufficient resources at their disposal, which should be determined preferably by Parliament. That explains why IHRIs only exist in democracies’ (p.9).

Based on the Paris Principles, IHRIs’ should involve their stakeholders in a pluralistic way. These stakeholders could be human rights NGOs, Academies, Parliament and government (De Beco, 2013).

According to Beke (2009), NGOs have the strongest links with NHRIs, as both can benefit from cooperation; NGOs give access to the community and also share their knowledge and expertise with NHRIs while NHRIs can coordinate NGOs’ actions and declare their demands to state authorities.

### ***Function and Mandate***

IHRIs are mandated to monitor government policy and hold inquiries into social problems. Most IHRIs can monitor existing and draft laws. They are consulted on compliance with international standards, raise awareness about human rights and also receive complaints from individuals (De Beco, 2013).

These institutions receive complaints from individuals:

‘Ombudsman offices mainly work on a ‘request oriented’ basis, which means that the complaints by citizens determine what the service works on. Ombudsmen are of course not just a ‘post box’, but can deal analytically and synthetically with complaints, so they can really wrestle with the ‘complaints structure’ and improve policy practice as a result of individual complaints and recommendations arising from them’ (Hubeau, 2009: 126).

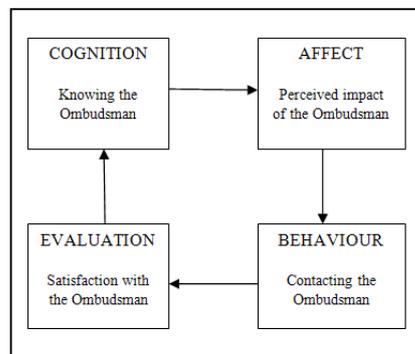
IHRIs annually report to the Parliament and this makes them accountable to the state. What develops their accountability from a one-way and once-a-year process toward public accountability is their consultation with their other stakeholders (Steyvers et al., 2009).

### *The Impact of IHRIs*

A number of authors have suggested different ways in which human rights institutions can have an impact on law, policy and public services. Steyvers et al. (2009) suggest that Ombudsmen ‘can be an important antenna for government in society, both signalling maladministration and serving as preventative leverage. Therefore, Ombudsmen can work as means of controlling policy execution. The extent to which ombudsmen are able to have an impact is dependent on their interaction with their environment. Hence, structural and cultural context matter a lot to IHRIs’ work’ (p.23).

Based on their relationships with stakeholders, and due to their professional competence, Ombudsmen can often resort to moral authority. Therefore, these institutions can have influence without power (Nelson and Price, 1968, cited in Hertogh, 1998).

Dunser (2009) points out that IHRIs can raise citizens’ awareness to knowing their rights and the means to enforce them. Steyvers and Reynaert (2009) illustrate a cycle for the impact of IHRIs on citizens (see Figure 2).



**Figure 2.** The impact cycle: a citizen perspective (Steyvers and Reynaert, 2009: 40)

In addition, an Ombudsman can direct the quality of the dialogue themselves between the government and its citizens, and shape it through a customer-friendly and communicative

approach. In this way, aspects of a democracy of deliberation and participation can gain more attention as part of the democratic process (Habermas, 1981, cited in Beke 2009: 128).

### *Challenges*

Despite all of the aforementioned impacts of IHRIs, 'it is not always easy to convince politicians that the establishment of an Ombudsman is necessary. Sometimes politicians are afraid of being controlled by an autonomous institution and sometimes they even fear a kind of competition between themselves and the Ombudsman' (Beke, 2009: 33-4).

Ombudsmen's decisions are not binding and they have to rely on their personal authority. Gaining and keeping this authority becomes a permanent task for an Ombudsman and its success is dependent on their position among its stakeholders (Van de Pol, 2009).

Although independence and neutrality improve the impact of Ombudsmen, in a way they can sometimes isolate them from their functional domains. This might cause problems in a world where inter-dependency is effective in increasingly complex policy networks (Bogason, 2006).

The other challenge is that Ombudsmen are not allowed to critically assess policy content (in terms of goals and means). This does not apply to children's Ombudsmen in general. Ombudsmen - in principle - have to function within the existing frameworks and are bound by them. Moreover, in practice, separate policy stages are not that clear-cut: preparing, formulating and executing policy is a constant and multifaceted dialogue. Practices and substances do interact and ombudsmen operate in an area that is highly important but less often the subject of public debate. This holds the potential of creating a field of tension in Ombudsmen's external relations (Hupe and Hill, 2006).

### **2.9.2. IHRICs and ICRI<sup>1</sup>**

According to UNICEF (2013), a number of IHRICs have a mandate established by the constitution and benefit from the high status that goes along with this. ICRI<sup>1</sup>s, in contrast, are

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<sup>1</sup> Independent Human Rights Institutions for Children (hereafter IHRICs) are integrated to a human rights institution and Independent Children's Rights Institutions (hereafter ICRI<sup>1</sup>s) are independently and separately established institutions. Literature on Independent Human Rights Institutions for Children (hereafter IHRICs) and Independent Children's Rights Institutions (hereafter ICRI<sup>1</sup>s) is limited. Two main resources informing knowledge in this area are Doek (2008) and a UNICEF report (2013) called 'Championing Children's Rights'.

Doek's paper, which is one of the UNICEF Innocenti Working Papers (Independent Human Rights Institutions for Children), discusses the need for such bodies, their role, possible mandate and powers, and guiding principles, as well as the problems of financing and independence (Prof. Doek has been a member of the UN Committee on the Rights of the Child (1999-2007) and a chairperson of that Committee (2001-2007)).

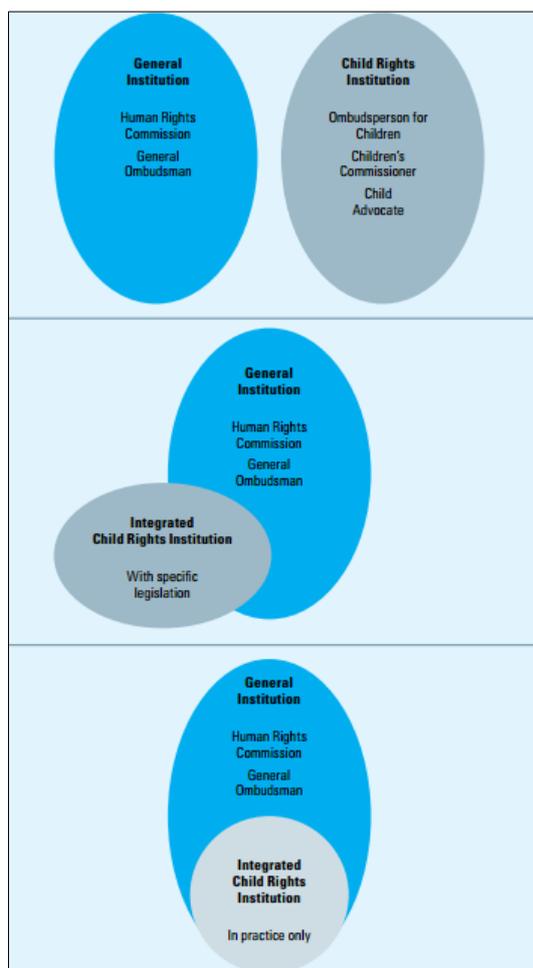
almost always established by law and almost never founded in the constitution. There is also structural difference, as illustrated by Figure 3.

As Lansdown (1997) puts it, ‘an Ombudsman for children is traditionally defined as an independent statutory body established to promote the rights and interests of children. The terms ‘Ombudsman’ and ‘Commissioner’ have been used interchangeably in the relevant literature’ ... as ‘Ombudsman’ is a Scandinavian term, it is generally not changed to ‘Ombudsperson’. Indeed, the first person appointed under the Norwegian Act, Målfrid Flekkøy, points out that the term is commonly used without gender-specific connotations, as she herself has done in her book: *A Voice for Children: Speaking Out as Their Ombudsman*’ (1991: 2).

While IHRI could be in the form of Equality or Minority Commissioners or Ombudsmen, IHRICs are children’s rights departments in general Human Rights Defenders or Advocates. ICRI are those independent institutions especially working for children’s rights like Children’s Commissioners or Ombudsmen.

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Championing Children’s Rights (2013) is a report by the UNICEF Office of Research (Innocenti) on a global study of IHRICs. Initiated by Trond Waage and directed by Vanessa Sedletzki, it is the first comprehensive review of independent human rights institutions for children and takes stock of more than 20 years of their experience. This research studies the development of independent human rights institutions for children globally and specific roles they perform. It also identifies core elements, characteristics and features that contribute to their institutional success or otherwise. The report is based on information from a review of different kinds of bodies across regions through direct interaction via dialogue and a survey answered by 67 institutions, and the review of academic literature, legislation, institution reports, and reports and studies from relevant international bodies and NGOs.



**Figure 3.** IHRICs and ICRIs (UNICEF, 2013)

The first ICRI was established in Norway as the Ombudsman for Children in 1981:

‘[The Ombudsman for Children in Norway] Barneombudet [was founded] well within the traditional institution of Ombudsmen in Scandinavian countries [where] historically, the ombudsman has been a strong figure who has been able to secure the attention of the authorities by sheer force of personality. The model seems uniquely suited to jurisdictions of small population, because it assumes personal involvement by the ombudsman in the cases that come to his office. It also may depend on a parliamentary form of government, and it certainly requires democratic rule. Moreover, its effectiveness would appear to require both skill and fortuity in the appointment process, so that the ombudsman has sufficient charisma, skill and political stature and independence to carry out the office's mission’ (Melton, 1991: 198).

Many IHRICs were established in the 1990s, following ratification of the CRC, but the majority of existing institutions in Europe have been founded since 2000. (Flekkoy, 1991; Melton, 1991; Lansdown, 1997, 2001; Gran and Aliberti, 2003; Thomas et al., 2009 and 2010). At a national

level, many NGOs are pressing their own governments to establish such bodies and, at an international level, the Committee on the Rights of the Child is pressing for more countries to do so (UNICEF, 2013).

The need for IHRICs has been based on three consequences resulting from the lack of a political structure for the representation of children. Firstly, children's interests are outside the arena of interests of policy; secondly, policy remains fragmented and uncoordinated without thorough research on children; and finally, information about children's own concerns are usually missing in the foundations for policy (Melton, 1987).

As Doek (2008) points out, in 2002 the UNCCRC in its General Comment No. 2 emphasised the need for an independent body to monitor the implementation of child rights and recommended this body's mandate, powers and possible activities. It is clearly stated in the Comment that adequate infrastructure and funding are a must for keeping institutions independent.

Steward (2009) points out that the Paris Principles and General Comment No. 2 highlight the fact that IHRICs must interact independently with the UNCCRC. IHRICs are to contribute independently to the reporting process under the Convention and follow up to COBs (Concluding observations of the Committee on the CRC) and monitor the integrity of government reports to international treaty bodies with respect to children's rights. This process can give IHRICs the opportunity to hold direct consultations with children and young people or support them in order to draft alternative adult-written reports. Moreover, the political and moral weight of COBs benefits IHRICs as they constitute an authoritative tool that may provide international credibility and legitimacy for these institutions to address or consider further a specific violation of children's rights (Steward, 2009).

### *Mandates and Powers*

The UNCCRC (2002) has declared in its General Comment No. 2 that IHRICs should have the power to criticise laws and advocate specific legislation but are not allowed to invalidate the law. Doek (2008) states that the IHRIC's mandate and powers should be based in the law and should guarantee its independence. The scope of its mandate should be broad in order to promote children's rights enshrined in the CRC and the IHRIC should have the power to obtain any information necessary for assessing alleged violations of children's rights. The powers of IHRICs must be well defined and complementary and should not compete or interfere with mechanisms existing under national law.

UNICEF (2013) points out that governments and Parliaments should ensure that institutions are founded on adequate legislation which explicitly sets forth the institution's grounding in the CRC, its role in representing the best interests of the child and its independence. Legislation should provide IHRICs with open and transparent appointment processes, and guarantee for the

allocation of sustainable and adequate resources from the national budget. Waage (2013) believes that IHRICs' legislation should achieve a balance between a strictly regulated and a more open role for them to perform both reactively and proactively. It should also enable them to work in an innovative, creative, flexible and non-bureaucratic way.

UNICEF (2013) points out that detailed mandates of IHRICs differ from place to place. However, they manage to make changes through combining their independence with 'soft power', which is 'the capacity to report, to convene, to mediate and to influence lawmakers, government bodies, public institutions and public opinion'(p.2). UNICEF discusses that IHRICs' ability to influence those with direct responsibility for policy and practice is what distinguishes an effective institution.

Doek (2008: 22) argues that IHRICs should 'develop and implement a strategy to systematically address the shortcomings in establishing the necessary infrastructure and other key conditions for implementation of the CRC (while ensuring that this infrastructure fully respects the general principles of the CRC)'.

IHRICs may also conduct or commission research to analyse the situation of children's rights. The findings of their studies can then inform policy and practice. More involvement of IHRICs' stakeholders in research makes this process a success. Some IHRICs also encourage academics' engagement with government in terms of implementing children's rights (Waage, 2013).

According to Doek (2008), monitoring the implementation of the CRC incorporates awareness-raising campaigns and training of families, parents and professionals in realising the child as a human being with rights. It also includes promotion of hearing children's voices and their participation in making decisions affecting their lives. Doek believes that IHRICs should undertake efforts to broaden this awareness among the wider community, such as by campaigning for the involvement of children in local and national policy development and implementation. It is also crucial to analyse the legislative measures of local and national policies and programmes, leading to concrete recommendations for changes (if necessary) in order to ensure full respect for child participation (Doek, 2008).

Most IHRICs receive and investigate individual complaints and the UNCCRC considers this power crucial for them. Institutions usually accept complaints made directly by children or adults who comprise the majority of the complainants through a simple letter, a phone call, a text message or in person. Interventions by IHRICs may help to resolve the cases in a fast and flexible way at an early stage. However, decisions made through mediation are based on agreements and are not always binding. In some cases, courts can make IHRICs' decisions legally enforceable (UNICEF, 2013).

Their proactive role gives the institution the unique opportunity to identify and address issues that are affecting childhood in a broader way, working cross-sectorally and holistically, by being a strategic entrepreneur that engages and motivates the state and local administration to implement children's rights from a perspective of 'protect to enable' as well as democracy and nation building (Waage, 2013: 2).

### *Challenges and Limitations*

Doek (2008) points out that the establishment or existence of IHRICs might be questioned due to the current remedies and complaints procedures in some countries. He adds that the lack of human and financial resources may act as an obstacle to the establishment of new IHRICs and independence of the existing ones.

Gran and Patterson (2005), who have examined the Children's Ombudsmen of 20 European countries, suggest that characterising institutions in terms of degrees of independence may prove more useful than merely using labels of 'dependent' or 'independent'.

Insufficient institutional resources can also limit the institutions' ability to deal with individual complaints. Yet, another key factor in Doek's (2008) view can be the reluctance of politicians to be monitored by an independent body which can publicise their bad performance in protecting children's rights.

UNICEF (2013) has found that the functions of IHRICs are as highly personalised as the individual Ombudsmen or Commissioners, but that they generally act as the main voice for children and have a decisive role in networking with stakeholders. This sometimes leads to Ombuds-led organisations in which priorities and partners are determined by the individual Ombudsmen or Commissioners. It has also been reported that the social, political and economic context to which these institutions belong is constantly changing and that competing interests continually affect their ability to be effective.

Doek (2008) describes the major challenges for IHRICs to be identifying key elements and developing an effective strategy to generate a political will for implementation of the CRC. However, this is a difficult task that needs to consider the different political structures and cultures of different countries.

Waage (2013) has observed that, 25 years after the CRC was adopted by the UN, a gap remains between the lip service paid to children and the resources budgeted for them; between commitments made to children and the lack of implementing them into practice; between declaring children's rights and making these rights a reality. According to his experience, many IHRICs turn into bureaucratic, reactive and charity-like institutions far from the spirit of the CRC. He argues that, in order to face challenges, IHRICs need to adopt a diversified strategy to reform

the law, evolve the perception of the child as given by the CRC and espouse innovative approaches in child policy (2013).

### *Stakeholders*

IHRICs have wide-ranging stakeholders including Parliaments and governments, parents, NGOs and professionals working with/for children (i.e. social workers, teachers, legal professionals, etc.) the media and children. In this section, children, parents, NGOs, Parliament and government will be discussed.

Doek (2008) argues that **children** should be consulted and involved in the establishment, organisation and activities of IHRICs. IHRICs should be in direct contact with children and councils for them could be created as advisory bodies. IHRICs must be accessible to children, both geographically and physically. Special attention should be paid to ensure access to the most disadvantaged and vulnerable children. Accessibility can be facilitated via telephone and the Internet. However, these are not available to millions of children so, the establishment of regional or local branches of the IHRIC becomes crucial in some places (Doek, 2008) which of course imposes cost implications to IHRICs.

Doek adds that IHRICs should recognise and support the responsibility of **parents** or other caregivers in the upbringing and development of the child. IHRICs should promote the right balance between the best interests of the child and the recognition of the parents' responsibility for their child. At the same time IHRICs should remind the states of their obligation to help the parents in performing their parental responsibilities in matters such as the provision of financial and human resources as they relate to services and facilities. IHRICs should also provoke their stakeholders to put pressure on authorities to make concrete measures for parents and children (Doek, 2008).

The work of **NGOs** complements and supports the activities of independent institutions in monitoring, promoting and developing activities. Developing good relationships with children's rights organisations can help institutions to protect their independence and enhance their work. This connection can help institutions 'to deepen public legitimacy, reflect public concerns and priorities, receive feedback on its own work and tap into valuable information, expertise and networks' (International Council on Human Rights Policy, 2005: 15). Collaboration with children's organisations enriches the work of independent institutions by supporting access to a diversity of children's views and experiences (Office of the High Commissioner for Human Rights, 2008).

According to UNICEF (2013), independent institutions often use the research that NGOs undertake. NGOs can also raise awareness of the existence and work of IHRICs, who also have

the potential to support NGOs to reiterate their recommendations and enhance their influence as they have direct access to decision-makers.

In relation to IHRICs, **Parliaments** adopt laws establishing institutions and identifying their mandate and powers. Many Parliaments have a say in the selection and appointment of the Ombudsman or Commissioners in addition to overseeing their performance. Most IHRICs submit an annual report to Parliament. IHRICs sometimes informally lobby Parliamentarians to press for legislative measures to promote the implementation of children's rights (UNICEF, 2013).

**Governments** are key stakeholders of IHRICs who inform them about children's rights issues and gaps in realisation of the CRC in addition to children's voices and wants. Waage (2013) states that a Cross-Party Child Rights Group within Parliament and an inter-Ministerial Child Rights Group in government can support the mechanisms to the IHRICs.

UNICEF (2013) suggests that:

‘Governments should instruct relevant departments and public bodies at all levels to fully cooperate with institutions in all of their phases of operation, including investigations, and should hold accountable those that do not do so. Due regard should be given to implementing recommendations. Thorough discussions of the institution's findings and proposals - in government, parliament and society (including the media) - are essential to the institution's long-term sustainability and effectiveness. It is the particular responsibility of governments to ensure the follow-up of recommendations by demonstrating their serious consideration and taking adequate measures’ (p.30).

### ***The Impact of IHRICs***

Lansdown (1997) argues that ‘the very existence of a Commissioner or Ombudsman for children transmits a message to society asserting the importance attached to children and their significance in society as individuals in their own right. And it is this visibility of children that begins the process of awarding respect for their human rights’ (p.13). She continues that the most significant role of the IHRICs has been raising awareness about children as rights holders. She adds that, considering the inadequate funding of most IHRICs and smallness of their offices, they have valuably influenced policy and legislation. For instance, they have analysed and reported the gaps in the laws in order to comply with the CRC, have advocated for or been consulted on the drafting of national children's rights acts and have also called for amendments in the existing laws (Doek, 2008). Doek also asserts that reports of the states to the UNCCRC illustrate the considerable input of IHRICs in the implementation of the CRC and how they have drawn attention to the most vulnerable groups of children.

IHRICs have mainly ‘provided the first ever opportunity for children themselves to have access to procedures for complaint’. They ‘have been able to achieve in many cases, a satisfactory resolution of the problem for the child concerned plus a far higher understanding within the wider society about the nature of children’s lives, the difficulties they experience, what they would like to see change, and the important contribution that children themselves can make to the processes of change’ (Lansdown, 1997: 13).

UNICEF (2013) states that impact of IHRICs depends on their capacity to identify, analyse and communicate concerns on violations of children’s rights, especially through dealing with individual complaints, and in regard to the skills, character and profile of the staff, especially the Ombudsman or the Commissioner, and the recommendations of the institutions taken seriously by governments and other actors. Other factors affecting IHRICs’ impact have been reported as successful lobbying for the allocation of sufficient resources for children (Doek, 2008) and the capacity to interact with other national bodies (Steward, 2009).

According to Lansdown (1997), challenges to evaluating the impact of IHRICs are the impossibility of measuring provision and protection of children’s rights, the complexity of change and the weakness of an individual actor in making changes in society. She also asserts that, due to the recent economic recession, many IHRICs have had to defend their existing services and, as such, evaluating the impact of this aspect of their work is complicated. Doek (2008) identifies the difficulty of measuring the impact of IHRICs’ recommendations; awareness raising, advocacy and networking are not easy to measure as obstacles in the impact evaluation of institutions.

### *IHRICs in Europe*

As noted earlier, the first ICRI was established in Norway in 1981. ‘With the Norwegian institution serving as a model, more and more independent human rights institutions for children were created in Europe - initially in countries with long traditions of democratic rule, where the notion of individuals as rights-holders was already well embedded socio-politically, before spreading through all parts of Europe. Despite first coming to life in Western Europe, within a very short time frame, these institutions began to emerge in southern and eastern parts of the continent’ (UNICEF, 2013: 233). The Council of Europe, a primary human rights organisation, significantly influenced the establishment of IHRICs by supporting them politically and strengthening existing institutions (Thomas et al., 2011).

Long-standing democracies of Western Europe mostly have ICRIIs with some variations in mandate. For instance, Nordic ICRIIs focus on policy work and do not handle individual complaints while Austria’s Commissioner is mandated strongly toward the protection of children, especially those in the care system. Newly established democracies of Eastern and Southern Europe mostly have IHRICs, i.e. Greece, Portugal, Spain and the former Communist states (UNICEF, 2013). It is worth noting that the biggest state of all (Germany) does not have one.

Lansdown (1997) discusses that every individual Commissioner or Ombudsman for children is unique. However, she draws out four significant patterns in European IHRICs' origin: ombudsmen established by a special Act of Parliament; those established through child welfare legislation; ombudsmen established within existing public bodies; and those established and run by NGOs.

She adds that a significant number of ombudsmen for children have been established by legislation introduced specifically for that purpose, and then given formal statutory powers and authority. In general, such bodies are characterised by independence from government. Their funding, functions and status are determined by Parliament to whom they are in turn accountable. They are therefore comparatively unconstrained by political interference and free to challenge and criticise government legislation, policy and resource commitments to children. Some also have certain powers to investigate, to report to Parliament, and to be consulted in the framing of new legislation. Examples include the Norwegian, Swedish and Icelandic Ombudsmen. Some other Ombudsman offices in Austria, Flemish-speaking Belgium and Denmark have been established without legislation, and as such they have no statutory mandate or powers. Some have been created by government, operate within a government department, and are accountable to it (Lansdown, 1997).

In a few countries, NGOs describe themselves as fulfilling the role of an Ombudsman or Commissioner. For instance, in Finland, an Ombudsman for children was previously established by an NGO called MLL (the Mannerheim League for Child Welfare) in 1981 to provide young people with services ranging from basic legal counselling to representing children in legal actions (Lansdown, 1997). It should be noted that MLL does not act as the Ombudsman for Children anymore and since 2005 an independent Ombudsman for Children in Finland (Lapsiasia) has been established.

According to UNICEF (2013), the annual budgets of European IHRICs are usually determined by Parliaments as a part of the state budget, which is a better guarantee of independence from the government of the day than direct allocation from a Ministry's budget. However, where the Ombudsman or Commissioner is appointed by the executive branch, resources are allocated by the government, as is the case in Austria, Belgium (the French community), Finland, Iceland, Ireland, Luxembourg, and England, Northern Ireland and Wales (all UK).

The work of existing Ombudsmen or Commissioners falls into three broad categories. Some Ombudsmen only handle individual cases of children; while most advocate for children both as individuals and as a body, a few act for children as a body with no individual representation. For most offices, a significant part of their work is devoted to seeking policy and legislative change consistent with promoting children's rights. However, the source of authority driving this area of activity varies. For those primarily undertaking individual advocacy and casework, any policy

work usually derives from issues of concern arising from those individual cases. They base their policy work not only on an analysis of individual complaints, but also on issues of concern identified via other sources. They serve as a bridge that communicates the views and experiences of children to legislators and policy makers (Flekkoy, 1991; Lansdown, 1997).

According to UNICEF (2013), 'in one third of [European] countries, offices are explicitly mandated to assess proposed legislation from a child rights perspective, although in practice, most institutions do initiate and comment on law reform. Where the Ombudspersons have become well established and respected within their societies they are consulted regularly by legislators and others when a new law is being formed' (p.241). Additionally, most institutions in the continent are given jurisdiction over both public and private bodies.

For most of the institutions in the region, dealing with individual complaints is a principal task and annually they receive an average of hundreds or even several thousand complaints, mostly made by parents. Children have submitted less than 10% of the complaints and the nature of most of the cases has been family life and education (Ibid).

European IHRICs work on publicising their existence and function. Raising awareness of children and adults including parents, professionals and members of NGOs and government departments has been their major priority. In addition to listening to children, generating their participation has increasingly become recognised as important by IHRICs in the region and they have applied diverse tools to engage children in the work of their offices and other matters that affect their lives. However, institutions have faced different obstacles in promoting children's participation, such as negative responses due to a history of oppressing regimes (UNICEF, 2013).

According to UNICEF (2013), other challenges reported by IHRICs in Europe have been inadequate and un-sustainable funding even in high income countries, maintaining their independence, the governance context they work in and its mainstreaming mechanisms for children's rights. The UNCCRC has expressed concerns at inconsistency in implementation of the recommendations of IHRICs in certain regions such as the Commissioner for Children in Cyprus. UNICEF states that, even after recommendations of the offices are taken seriously by decision-makers, an ongoing follow up of their impact of children's lives is needed.

Overall, UNICEF's report (2013) indicates that:

'Much has been accomplished over the past several decades in the development of independent human rights institutions for children in Europe. Historical, political, economic and social contexts have facilitated institutional growth, as have strong regional human rights mechanisms and the political will to improve the protection and status of children in society. But the same countervailing forces and challenges that exist elsewhere in the world are

present in Europe too, and institutions must continually adapt and develop to new circumstances and new generations of children' (p.256).

The European Network of Ombudspersons for Children (ENOC) was established in 1997 by 10 founding members in Norway to link IHRICs and ICRIS in different European countries. By October 2014, it had grown to include 42 IHRICs in 32 countries as members of this network (CRIN, n.d.a). As stated by Thomas et al. (2011), ENOC's mandate is to facilitate the promotion and protection of children's rights through encouraging implementation of the CRC, promoting collective lobbying, sharing information and strategies, and supporting the establishment of IHRICs and ICRIs.

According to UNICEF (2013), membership in ENOC sets standards for IHRICs. Independent institutions established through legislation with a Commissioner for children can be granted full membership of ENOC. The network also offers considerable potential to bridge the gap between the institutions and policies and the structures of the EU. This contribution is valued by the European Commission and the Council of Europe. Considering the vulnerability of IHRICs, being supported by strong European institutions is important (Thomas et al., 2011).

## **2.10. Evaluation of IHRIs and IHRICs**

In this section, theories of evaluating IHRIs and IHRICs and their challenges will be studied. In addition, evaluation indicators and their pros and cons will be discussed. Then, previous evaluations of IHRIs and IHRICs will be reviewed.

### **2.10.1. Evaluation Theories and Indicators**

Evidence on the assessment of the impact of Ombudsmen's offices and the range of their analysis is limited. For an original impact evaluation of Ombudsmen, the independence of the researcher is essential (Nelson and Price, 1968; Hertogh, 1998; Lansdown, 1997). Steyvers et al. (2009) suggest longitudinal and multifaceted evaluation of IHRIs in different contexts.

An assessment of the impact of the Ombudsmen should answer two main questions: 'What is the Ombudsman for?' and 'What difference does the Ombudsman make?' The principal themes of these inquiries are reputation, legitimacy and the credibility of the office of Ombudsman. Another basic theme of the evaluation is participants' perspectives, whether they are the staff, the complainants or the body being complained about (Brown, 2009).

Wrong (1995) argues that, in an impact assessment of the IHRIs, characteristics of their impact should be considered. For these Offices, the line of causality between their function and its effect on their stakeholders is not straightforward, as there are varied features and responsibilities both in the institution itself and its context. Ombudsmen's impact is also affected by their power; in Wrong's view, IHRIs hardly ever have sufficient power to bring about planned effects. It is worth

noting that IHRICs usually have more power than some other Ombudsmen. Steyvers et al. (2009) discuss that the Ombudsmen's impact illustrates the authority underpinned by a combination of legitimacy and competence. Therefore, impact should be considered as a matter of balance between complex approaches, different dimensions and multitude reflections. Structures and resources are among the essential dimensions.

According to the International Council on Human Rights Policy (2012), performance in rights-based work can be measured in terms of 'influence'. When trying to make an assessment of IHRIs' influence, approaches to power measurement should be taken into account. One of these approaches is of elitist scholars who believe that elites control the outcomes of decisions. Burton and Highly (1987) argue that this approach focuses on 'reputational analysis'. It tries to identify key stakeholders of the Office and assess the impact of the Ombudsmen. Waste (1986) points out that this view is criticised by pluralist scholars, who think several groups compete in influencing decisions. Pluralists stress the study of decision-making in contrasting but important policy domains. The third approach is similar to the effect method in which the relationship of identifying a problem and the chosen solutions are studied. The final approach is a social network analysis of the exchange flows of the system in which the institution is located and the position of the institution in this network (Knoke and Yang, 2008). Steyvers et al. (2009) suggest applying a mixture of the mentioned approaches to scrutinise the office reputation, its decision-making, problem-solving and position among its stakeholders.

Thomas (2011) has observed that the first challenge in assessing the impact of IHRICs is 'to achieve sufficient *clarity* about *aims* and *objectives*... [as] institutions do not all have exactly the same powers and functions, and that they may also set their priorities differently' (p.283). Thomas discusses that identifying the impacts to be measured depends to some extent on who needs the evaluation: government, academies, stakeholders or the institution itself. It may also depend on whether the aim of the evaluation is to compare IHRICs with each other or with other child-rights-based organisations. In order to spot comparable elements, Thomas suggests concentrating on more general aims and objectives of IHRICs instead of their specific duties, which are defined by law. Of course, he admits that the challenge will then be to 'turn something very general like 'safeguard and promote the rights of children' into more precise statements of impact and outcome which can be objectively assessed' (p.284).

The International Council on Human Rights Policy (2012) points out that an important challenge of impact evaluation is to be able to monitor institutions' 'micro' activities without missing the 'macro' objectives. Steyvers et al. (2009) suggest that the impact of IHRICs on complaints and policy and public administration should be studied. They add that evaluation should also be concerned about acceptance of the work of the office, which can be conducted by engaging in follow-up action and regulating their relationship with lawmakers through dialogue and

monitoring. Bearing these aspects in mind should not stop evaluators from considering government and cultural frameworks (Steyvers et al., 2009).

According to UNICEF (2013), the key issues and problems of evaluating IHRICs' impact on policy include the various actors and complex power dynamics involved in policy change in addition to invisibility and the hard to measure nature of such policy change. Isolating contributions of the office from other bodies is indeed difficult. Outcomes of policy change usually do not happen in the time frame the evaluation research is conducted within, whilst the institution's goals and strategies may change in the interval.

The International Council on Human Rights Policy (2012: 13) argues that a shift of focus from evaluation or audit to 'evaluative thinking' is required. Evaluation involves an 'action-reflection-learning chain' that is continuous and integrated into the organisation's culture. Such a shift requires a 'political commitment and institutional structures and spaces'. Evaluation as a tool for vertical accountability reduces opportunities for learning. An accountable organisation learns through evaluating its work and improves as a result.

'A key element in moving from 'judgement' to 'learning' is the creation and maintenance of trust amongst all the various parties concerned. The process itself needs to be open and frank; mistakes must be openly acknowledged. Yet, this kind of honest dialogues will only occur if there is adequate transparency and participation, and if all involved are seen to share the same overall goals. Of course, honest dialogue can be particularly challenging given the nature of relations between funders and grantees'. (Ibid: 14)

The International Council on Human Rights Policy (2005) argues that, in order to evaluate NHRIs' performance and impact, indicators of performance (how well the activities were carried out) and of impact (positive impact of activities on enjoyment of human rights) should be developed. It is important to understand that an indicator only has significance in a particular context and in relation to an objective. Quantitative indicators are not recommended, as they do not consider in depth information about the complex socio-political processes of NHRIs' work. They can be misleading because they cannot reflect dynamic processes of change. For example, the most frequently used one by NHRIs has been the number of received complaints. This might show progress in terms of the performance of the office and the level of public awareness of its work but it might also show deterioration of human rights situation. Applying qualitative indicators developed with the participation of stakeholders is recommended. These indicators should be 'tailor-made' for the context in which they will be used (The International Council on Human Rights Policy, 2005).

UNICEF's review (2013) of 67 IHRICs showed that they monitor their impact and effectiveness by:

- Evaluating the awareness that children and the public have of their work
- Informal and formal feedback from their partners about their particular programmes and outcomes
- How their Office is represented in the media and reflections on how their strengths and weaknesses are reported
- Analysing the data on the contacts made to and individual cases received by their Offices. Keeping a record of the quantitative part of this data (especially the numbers of individual complaints) has become a routine in many Offices (2013).

The Office of the UN High Commissioner for Human Rights (cited in International Council on Human Rights Policy, 2009) admits that researching human rights institutions' impact and effectiveness is not easy and, it suggests some aspects and indicators to measure them:

- Media coverage
- Rights education
- Public awareness
- The goals achieved
- Input of the institution
- Sustainability of the Office
- Recognition by government
- Participation of stakeholders
- Influence on decision-makers
- Conducting impact and performance evaluations

Measuring the impact of much of IHRIs' and IHRICs' work is hard as the cultural shift and changes in mind sets cannot be made only through their work (International Council on Human Rights Policy, 2009).

There are some overlaps between performance and impact evaluation. However, UNICEF's Office of Research (2013) makes a distinction and suggests performance indicators for internal and impact indicators for external evaluations:

***Internal:***

- Reactive/proactive reaction to children's rights issues
- Handling complaints
- Diversity in staff and youth panel advisors
- Child-friendly media to raise awareness
- Sufficient and expert staff
- Transparency and accountability

***External:***

- Being taken seriously by policy makers
- Sufficient mandate and powers of the institution
- Strength of working relationship with stakeholders
- Independence of the Office (sufficient resources and autonomy)
- Visibility and accessibility of the Office, especially for marginalised children (2013)

Indicators of impact of the legislative work of NHRIs should show whether government or a legislator followed the advice given, whether the government takes the NHRI's advice on small or serious matters and whether implementation of the advice by the NHRI resulted in a positive change in the enjoyment of human rights on the ground (The International Council on Human Rights Policy, 2005).

Waage (2009) identifies indicators of success as: independence, accessibility (especially to children), accountability particularly towards children (mutual respect and trust), proactive/reactive balance and a multi-disciplinary, holistic approach of the Office. Engaging children in appointment of the Ombudsman and considering the perceptions of children and childhood are also important. It is important to bear in mind that childhood is not a static phenomenon.

Some child rights indicators could also be used in evaluation of child rights institutions. A [child] rights indicator is a piece of information used in measuring the extent to which a legal right is being fulfilled or enjoyed in a given situation (Green, 2001). Blanchet et al. (2009) point out that, until the early 1990s, evaluation focused largely on the statistical analysis of numerical indicators on health, education and child protection such as birth registration and years of school completed. Afterwards, there came shifts in the paradigms of child survival and well-being toward child rights with child-focused indicators at the centre of attention. They included structure (indication of commitment), process (efforts made and action taken) and outcome (resultant and measurable change). It is important to note that child rights indicators should be grounded in the specific conceptual and normative framework of the UNCRC (FRA, 2009).

For instance, in designing their accountability model, Blanchet et al. (2009) considered three 'dynamic domains' of the child, mechanisms and mandate. By giving specific attention to the child's own experience as a rights-bearing person, they referred to the mechanisms as strategies and interventions applied by duty-bearing systems, programs, people in government, professions, non-governmental organisations and other groups who protect and promote the rights of children. A mandate refers to legislation, policies, standards and regulations, ethical and moral obligations that establish the requirements and expectations for children's rights, well-being, health and development at the international, regional, national and local levels.

As indicated by Thomas (2011), identifying suitable indicators can be very challenging. Some of the institution's tasks may need simple and straightforward measures, but for some others it may

be harder to specify impacts, because desirable outcomes may be highly variable from case to case (and also contested because they are so much a question of judgement). Another challenge seems to be achieving sufficient clarity about the aims and objectives of institutions, in addition to the problem of attribution.

According to the International Council on Human Rights Policy (2005), well-designed indicators can provide a clear view of institution's work and can show whether it is fulfilling its mandate and reaching its goal, which is protecting and promoting rights. They can show what the institution is doing well, where it is making an impact, how and why, help set targets for the future and improve communication on objectives and achievements. Indicators can also strengthen collaboration with their stakeholders. Potential pitfalls of indicators are:

- Indicators may become performance targets and distort the objectives of the organisation.
- Those rights problems for which no indicators have been devised might not be addressed by NHRIs.
- Indicators might be applied to address simply measurable parts of NHRIs' work and not their values, for instance.
- Some indicators might absorb more of an organisation's time, energy and money than the information they generate is worth.
- When not designed with collaboration of the organisations, evaluators might be pressed to find data for the various indicators they have developed to show significant positive changes as a result of the interaction (Ibid).

### **2.10.2. Previous Evaluations of IHRIs and IHRICs**

In this section, examples of academic evaluations of IHRIs and IHRICs will be discussed. Internal evaluations of IHRICs are not presented here, as these are mostly not openly accessible or presented in English.

External evaluations of IHRIs and IHRICs are sometimes commissioned by the institutions themselves but are mostly commissioned by governments in order to question the necessity of the existence and budget allocation of these institutions. As Waage (2014, interview with the researcher) is concerned, this might turn those evaluations into biased, bureaucratic procedures. Moreover, they mostly collect data to assess and monitor the work of the Offices and they do not have a systematic methodological approach toward impact evaluation of IHRICs so do not add to the knowledge about the impact and evaluation of these institutions.

The main focus of IHRIs' external evaluations has been on the level of public awareness and the number of complaints made to the Office; usually conducted by asking the citizens to complete questionnaires. An exception in such evaluations by government departments could be the review of the Northern Ireland Commissioner conducted by Office of the First Minister and Deputy First

Minister in 2010. The evaluator team designed different themes of the work of the Office and applied a mixture of data collection methods to diverse stakeholders of the institution. The chosen themes were: delivery of objectives, relationships, past, responsiveness, good practice and delivery mechanisms. The staff and individuals from NGO and the statutory sector were interviewed and a pre-designed questionnaire was applied to assess the level of children's awareness of the Office.

#### **2.10.2.1. IHRI's**

##### ***Evaluation of the Parliamentary Ombudsman in Finland***

Pajuoja (2009) did a secondary analysis of the data derived from two academic studies (in Finnish) conducted by the University of Joensuu on the Parliamentary Ombudsman in Finland. One of the studies was an impact evaluation of the institution (Maata and Keinanen, 2007). This research concentrated on two aspects of the work of the Office: influencing legislation and decision-makers' responses to the institutions' statements and consultations. The other study was Raninen's (2008) research, which evaluated the visibility of the Office in the media and studied people's insights into the work of the institution.

Pajuoja (2009) concluded that a very large proportion of the population trusted the Ombudsman, but very few were aware of the impact of the Office on legislation and barely had any personal experience of the institution's activities. This was assumed to be due to the role of the media, as people's perception of what the Ombudsman does is not the result of their personal experience, but comes from the media.

##### ***Evaluation of the Ghent Ombudsman***

In another academic study in 2009, Steyvers and Reynaert - political experts from Ghent University - asked citizens about their awareness of the Ombudsman, whether they were in contact and involved with the Office and their level of satisfaction with the work of the institution. They were then asked to rate the responsiveness of the Ombudsman. Second, the impact on city administration politics and policy respectively was dealt with. Third, citizens were asked to determine the balance of impact between mediation (the management of individual complaints) and control (the formulation of policy recommendation). Results of the study were presented in the form of quantitative measures and percentages of the satisfaction of the citizens.

##### ***Conclusion: Evaluations of IHRI's***

As far as the relevant literature was captured, the evaluations mentioned above are a representative sample of the external evaluations of IHRI's, other examples being Caiden (1983) and Passemiers et al. (2009); most of them focus on citizens' awareness and impressions of the Offices. However, these cannot be recognised as 'thorough' evaluations of Ombudsmen, as citizens are not the only

partners in the relational network of Ombudsmen. Politicians, administrators, the media and civil society might each come up with an entirely different assessment of the function. In some countries, citizens can be assumed to be generally less aware of the particularities and the work of the office and they might have abstract (albeit potentially incorrect) views of what Ombudsmen (can) do.

#### **2.10.2.2. IHRICs**

In the review that follows, my focus will be on the approaches of the previous academic, external and independent evaluations of IHRICs in English. Additionally, some of the useful findings and recommendations of researchers will be discussed as well. When going through the attempts to evaluate the effectiveness and impact of IHRICs, all of the previously mentioned issues should be considered.

A UNICEF study of IHRICs and ICRI in 2013 involved direct interaction via dialogue and a survey answered by 67 institutions and, reviewed academic literature, legislation, institution reports, and reports and studies from relevant international bodies and NGOs. The review revealed that institutions have used various tools to obtain feedback on their work, including advisory boards, especially youth advisory groups. Consulting these groups is a common practice for institutions located in high-income countries which rely on youth advisory boards to help set priorities, monitor progress and give advice on children's rights issues. Polls and surveys can also be applied to assess stakeholders' satisfaction with an individual activity or the overall performance of the institution. Alternatively, children's views on their issues or the work of the Office can be obtained through websites or in schools.

External evaluations of IHRICs have taken place either at the request of the institution itself or of government ministries or Parliament. In some cases, evaluations have been conducted as part of overall reviews of either child protection or human rights protection (UNICEF, 2013). The Offices of the Ombudsman for Children in Norway and Sweden have undergone external reviews, as commissioned by governments. In 1995, the Norwegian Parliament requested an evaluation of the Ombudsman for Children, which was administered by the Ministry of Children and Family Affairs and produced important guidance for the strengthening the powers and independence of the institution (The Ombudsman for Children and Childhood in Norway, 1996). In 1998, a governmental appointed committee reviewed the Ombudsman for Children in Sweden and produced a broad range of positive feedback accompanied with concerns about issues on independence of the institution (Ombudsman for Children in Sweden, 1999).

None of the following evaluations denies the benefits of the Offices or the necessity of their existence. However, they have not been able to compare the situation of children's rights prior to/after the establishment of the Offices due to the lack of longitudinal and multifaceted knowledge of IHRIs' impact.

### *Melton's (1991) Evaluation of Norway Office*

The very first evaluation of an IHRIC was done independently by a child psychologist from the US. He studied statements of the Ombudsman for Children in Norway (Barneombudet) and asked 50 informants including the staff, public, NGOs and government departments about the work of the institution. He used a case-study method to assess the effectiveness of the Barneombudet and categorised its statements by their outcomes (i.e., positive, negative, mixed or unknown), and then selected cases from each group, with an effort made to ensure diversity of topic.

The key actors in each case were identified through consultation with the staff of the Barneombudet, a review of records, and by questioning the informants initially identified. These individuals, most of whom were senior government officials or researchers, were then interviewed in English about their impressions of the decisions made in the particular cases, the reasons for the decisions, and the role that the Barneombudet and other advocates and officials played in the decision. Also, relevant documents in the case files (e.g. hearing statements, correspondence, ministry reports) as well as the Barneombudet's annual reports and other publications were reviewed by the author.

In addition, some individuals were interviewed about their general knowledge of the Barneombudet apart from the particular cases under study, although most of these informants also provided observations as key actors on particular cases. Wide-ranging interviews were conducted with the individuals who worked there, their deputies, various advisory board members, and various scholars and advocates who were widely acknowledged to be central to policy debates concerning children in Norway. Children's awareness of the Barneombudet was studied by a survey of 74 children aged 12, which is a very small and non-representative sample. It was conducted at school and a considerable number said that they knew about the Office and would trust it when facing a problem.

The report concluded that, taking into account its youthfulness and quite limited resources, the performance of the Barneombudet has generally been quite positive. It was advised that the authorising legislation for the Barneombudet should be amended to establish it as the entity for enforcing the United Nations Convention on the Rights of the Child in Norway. The staff of the Barneombudet should be substantially increased and a research team should be established. In order to enhance their impact, the Office should identify and persuade the key decision-makers and contribute to the creation of legal and political structures. It is not indicated in the report whether the recommendations were adopted by the Barneombudet or not.

### *Haydon's (2006) Independent Review of the Legislation of NICCY*

The review was performed as a response to the requirements of the institution's order (2003) that every three years a report on the adequacy and effectiveness of the order, in addition to

recommendations to amendments to it, should be submitted to government. In 2006, three years after the establishment of the Office of the Commissioner, the review was commissioned by the PCF (an alliance of organisations working for children) to an independent researcher (Deena Haydon). However, after devolution, this task was fulfilled by OFMDFM. Haydon's background was in education and social policy and she reviewed the effectiveness of NICCY's legislation and the operation of the Office via focus groups and questionnaires completed by voluntary and statutory organisations. Participants were asked about their awareness of NICCY's work and their contact and involvement in the activities of the Office. Stakeholders experienced difficulty identifying the Commissioner's impact over the last three years, and while there were some examples of collaboration with the Commissioner overall, this was limited. The review suggested that NICCY should exercise all of their powers and lobby for removing the limitation on their legislation. In addition, NICCY was advised to include all children and young people in their work besides prioritising areas of work due to the magnitude of their task.

Rather than being an evaluation of the Office, the focus was on its legislation, limitations and their impact on the outcomes of the Office.

#### *Hrabar's (2009) Evaluation of the Ombudsman for Children in Croatia*

In 2009, the Ombudsperson for Children in Croatia contracted a team of national and international experts in children's rights, psychology, and constitutional and family law to conduct separate assessments of the office on the fifth anniversary of its establishment. Waage (2009) thinks one critical comment arising from this evaluation has been in relation to a legal provision of the Office, according to which the Ombudsman could be relieved of his post if his report is not accepted by Parliament. This is a clear threat to the independence of the Ombudsperson for Children and calls for its amendment were recommended. Evaluations by Hrabar, Vidovi'c and Žižak and Bezinovi'c have been selected among those individual evaluations of the Ombudsperson for Children in Croatia.

Hrabar - an expert in family law - chose to monitor the development of the Ombudsman for Children in Croatia by analysing its annual reports and reports of individual complaints between 2003 and 2007. She found the annual reports to be logically written and described the reports on casework as realistic and indicators of the Ombudsman efficiency in battling violations of children's rights.

Hrabar (2009) concluded that the Ombudsperson for Children systematically and with a multidisciplinary approach monitors children's rights while keeping a balance in reactive responses to potential threats. Hrabar found it is astounding that such a small number of people have been able to deal with such a broad scope of tasks. The existence of the Office has been adequately recognised, as is clear from the number of cases dealt with and the growth in the

number of cases. However, more intervention in state structures for more recognition of the Ombudsperson for Children as an independent body is recommended.

Hrabar only listened to the Ombudsman and staff by reading the reports, which were written to show efficiency to funders of the institution. As such, they should not be the only reliable documents referred to for evaluation, which stakeholders of the organisation do not have a role in.

*Vidovi'c and Žižak's (2009) Evaluation of the Ombudsman for Children in Croatia*

Vidovi'c and Žižak (who have a psychology and education background) did a collaborative evaluation of the work of the Office of the Ombudsperson for Children of the Republic of Croatia for the period 2003-2008 with their focus being on the psycho-social aspects of the work of the institution. The methodology of the evaluation was based on a quantitative analysis of the efficiency of the activities against the goals planned in addition to assessing the influence of the work of the Office at both the individual and general levels. In order to do so, the efficiency of the Office at different levels of programme, individual complaints, legislative agendas and the media were analysed.

Programmes of the Office were categorised into individual cases: protecting the rights of vulnerable children, awareness-raising and national and international networking. With regard to handling individual complaints, the number and nature of the cases, who reports them, the level of the resolutions and clients' and the Office's satisfaction concerning the interventions were analysed. Indicators used for efficiency of the Office in legislative work were: the number of adopted, fully/partially adopted, still in progress and rejected proposals. And finally, media coverage of the amount of individual complaints was scrutinised.

For instance, the efficiency of the Office in regard to individual complaints was assessed this way: a comparison of the number of received cases revealed that the range of the Office's activities expands from year to year, as does the scope of its operations. There was exponential growth in the number of cases worked on each year. This rapid rise in the number of cases can be attributed to several causes, of which we consider the most important to be increased social awareness of violations of children's rights and greater success in informing the public about the Office of the Ombudsperson for Children's.

The report concluded that the Office had acted in accordance with recognised international principles for the actions of Ombudspersons, including the principle of excellence, professionalism and advocating diversity. The researchers recommended that a systematic evaluation should be initiated and the way in which activities are assessed, recorded and monitored should be improved. In connection with this, 'they pointed out the need for further elaboration of the final outcomes, e.g. by applying follow-up procedures. As an example, one

such indicator might be consistence, or the appropriateness of action on the part of individual institutions, following recommendations from the Office' (Vidovi'c and Žižak: 57). Finally, it is not reliable to judge the rights-based work by the quantities of complaints, cases and mentions by the media.

***Bezinovi'c's (2009) Evaluation of the Ombudsman for Children in Croatia***

This evaluation is based on a SWOT analysis of the office by a social researcher and aims to give an overview of the strengths and weaknesses of the Office's work in addition to the threats and opportunities for its development. He asked the staff to enter their answers to the questions asked in the four SWOT fields (strengths, opportunities, weaknesses and threats). His findings were as follows:

Strengths were reported as: a positive image of the Office in the public eye, motivated and expert staff plus timely reaction of the Office to issues of children's rights. Opportunities: Increasing public influence through the media, publishing and networking and preventive work with children. Weaknesses were identified as: taking over tasks which belong to others actors and facing overambitious expectations.

Threats were spotted as: declarative vs. actual dedication to safeguarding children's rights, lack of understanding of the Ombudsperson's role, poor functioning partners, inadequate awareness of professionals and insufficient premises and resources.

The report concluded that 'the opinions articulated in this SWOT evaluation of the Ombudsman can serve as a very good basis for elaborating a strategy of reinforcing the public role and activities of the Office of the Ombudsperson for Children. The prevailing attitude in this self-evaluation is a realistic attitude which reflects the staff members' belief in their own abilities and capacities, but also their awareness that one can always do better' (Bezinovi'c, 2009: 73). He considered strengths and opportunities but put them beside the weaknesses and threats. In addition, only staff members participated.

***Thomas et al.'s (2010) Evaluation of the Children's Commissioner for Wales (2008-2010)***

Thomas et al. (2010) performed a methodical research on effectiveness of a children's commissioner in Wales for the first time, whereby evaluation of an IHRIC was undertaken in partnership with children and young people. They were a team comprised of 15 children and young people and 3 adults supervised by Professor Thomas, who is a member of the International Research Group on Ombudspersons for Children. In their participatory research, questionnaires for studying children's awareness of their rights and the Commissioner were designed for children and the staff and stakeholders of the Office were interviewed. Related documents were also

reviewed. The project lasted three years and the Ombudsman responded fully to the recommendations in their report.

The team decided to focus on three main aspects of the institutions' work which were awareness-raising, policy and casework. Indicator groups used in the evaluation of the Commissioner were communicating, consulting, complaints and advocacy, making inquiries and advice and support.

They based their evaluation on these key questions:

- 1) How well does the Commissioner's office engage with children and young people?
- 2) How much do children and young people know about the Commissioner?
- 3) What impact is the Commissioner having on policy and services for children and young people in Wales?
- 4) How effective is the advice and support service?
- 5) Has the Commissioner lived up to expectations?

Findings were analysed and reported in collaboration with children and young people of the team. Although the most substantial parts of the research were the school-based survey<sup>2</sup> and the interviews with stakeholders, the final picture was the product of 'triangulation' from all of the different methods used to generate data.

Thomas and his team considered engagement of children and young people in IHRIC's activities as an important indicator. They also included the impact of the institution on policy and practice in their evaluation. Like some other previous evaluations of IHRICs, the team applied multi-criteria research with multi-informants and triangulation of data sources. Their study paid more attention to the context of the Office and considered IHRICs as part of a system in the children's rights field.

Thomas et al.'s (2010) report admits the difficulty of evaluating IHRICs especially in isolating the impact of IHRICs from other actors'. Like all other mentioned evaluations of IHRICs, they conclude that the Office has had some success in 'many important respects, but that there are issues that need to be addressed' (p.46).

### ***Conclusion: Evaluations of IHRICs***

The reviewed evaluations have been carried out by researchers from different backgrounds ranging from psychology to education, and from social work and social policy to law. However, none of them point to their approach towards children and children's rights. Nor do they critically discuss the CRC and the intense expectations from IHRICs.

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<sup>2</sup> Findings of the survey revealed that between 8% and 13% had heard of the Children's Commissioner, and 31% had heard of the CRC.

Evaluators have included reviewing the following:

- 1) Influence of the Offices on legislation and policy
- 2) Actions of the Office as a result of contact/complaints of children and young people
- 3) Knowledge of the Offices and children's rights among stakeholders, especially children and young people

The reviewed evaluations of IHRICs have applied surveys, interviews and relevant documents such as the statements of the Offices, their annual reports and records of the individual complaints dealt with by the Office in addition to media coverage. Informants have been either merely the staff or staff and adult stakeholders. Milton, Thomas and OFMDFM also involved children and asked about their awareness of the Office. Thomas and his team participated children and young people in their evaluation work from the start of the study through to the analysis and reporting. Melton identified his informants by consulting the staff. Among the evaluators, only Melton was an outsider to the context. He admits that there may have been some minor misunderstandings due to the difference of language.

The reviewed evaluations are single case studies that have made efforts to assess the effectiveness and performance of the Offices mostly through their outcomes. Their findings are mostly macro narratives of success of their case studies and do not concern micro narratives and the details of activities and their mechanisms. Researchers have concluded that achievements of IHRICs have been satisfactory despite their young and small Offices. It seems as if due to the vulnerability of IHRICs, the evaluators have tried to be positive and optimistic about their outcomes. Hrabar even states that the Office in Croatia has gained 'full efficiency'. Wales' and both of Northern Ireland's evaluations have taken a critical approach to their findings. The fact that they defined one of their categories as the 'impact' of their case studies might have played a role here. Evaluators have suggested amendments to remove limitations from the performance of the Offices. Offices have been advised to consider systematic evaluations, follow up their work and apply more interventions to state structures.

### **2.11. Conclusion to Chapter**

IHRICs can be effective tools in institutionalising children's rights; they have the mandate and powers to monitor and influence legislation and policy regarding children. These independent bodies base their work on the CRC and act as national pressure levels alongside international forces on authorities. IHRICs can make governments accountable and ask for allocation of resources for children. These institutions can identify the gaps and breaches of children's rights and take care of conditions of children's lives, especially in relation to socio-economic changes. Child emancipationists argue that IHRICs should consider children's rights as in-progress, go beyond the CRC, work on the living/unwritten rights of children that can be created by children and attempt to facilitate children's meaningful participation in the affairs concerning them.

Evaluating the impact of IHRICs is a challenge, as measuring the provision and protection of children's rights is impossible, change is complex, isolating the impact of these institutions from the network they are collaborating with is hard and so on. Different evaluators have attempted to tackle these challenges through single case studies of these institutions, surveys and interviews with staff and stakeholders, document analysis and researching children's awareness of their rights and the function of the Offices. Besides measuring the level of awareness of children and the public on the institutions, the two main focuses of these studies have been on IHRICs' impact on complaints and legislation. Although the previous research on evaluating IHRIs and IHRICs has contributed to knowledge about them, they are missing a systematic and critical approach in addition to details of the activities and micro narratives of IHRICs. This thesis has attempted to compensate these shortages with an emancipatory approach to children's rights and critical realist approach to impact evaluation.

An emancipatory impact evaluation of IHRICs should study how they interpret the CRC in a local way and contribute to its effective implementation, and whether they work towards translating children's experiences into rights and making space for children's meaningful participation. An emancipatory impact evaluation of IHRICs should be dynamic as these institutions work in a changing context and childhood itself is not static. An emancipatory impact evaluation of IHRICs should also take cultural politics of childhood seriously and pay attention to interdependencies and interrelations of the factors affecting children's rights, therefore impacting on IHRICs' work. It seems that, in order to provide detailed impact evaluation of IHRICs, how they are trying to make an impact should be figured out. Then the focus should be on how to develop methods and tools for measuring the impacts made by IHRICs.

## CHAPTER 3: METHODOLOGY

### 3.1. Introduction

The original conception for a project on evaluating the impact of IHRICs, emerged from my Director of Studies and his team's evaluation of the Children's Commissioner for Wales (Thomas et al., 2010 see 2.10.2.2). However, I have developed the epistemology and methodology for the project as well as designing the template for evaluation of IHRICs. The research was planned as part of a wider programme of study of Children's Commissioners and Ombudsmen, or 'independent children's rights institutions', directed by Professor Nigel Thomas with international collaborators. The particular focus of the research that forms the basis for this PhD is on ways of measuring impact. The original aim was to develop methods and instruments for assessing the impact of independent children's rights institutions, through a review of relevant literature followed by an empirical inquiry, based on one or more independent children's rights institutions and designed to explore and test the reliability and validity of different approaches to measuring impact. The detailed plan for the research was to be developed following enrolment, to reflect the strengths and preferences of the student. Professor Thomas had good contacts with Children's Commissioners and Ombudsmen in Britain and Europe, and elsewhere in the world, which it was hoped would facilitate recruitment of sites for the empirical research. However, initial direct contacts with two of the Children's Commissioners were unsuccessful in recruiting study sites. Hence, I decided to begin with a survey of ENOC member institutions, which would produce original evidence about the impact of independent children's rights institutions in Europe and assist in case study recruitment.

The research had two phases. First was a survey of all members of the European Network of Ombudspersons for Children (ENOC), with two aims: (i) to get a broad picture of how institutions across Europe saw their priorities and understood their impact; and (ii) to provide an evidential basis on which to recruit participants for phase 2. Second phase was case study research with institutions in two countries (Finland and Northern Ireland). I reached an agreement with the two ICRIIs and carried out a comparative case study. Based on what was learned through the literature review, the survey and consultations with experts, it was proposed that the main focus should be on evaluating the organisation's impact on law and policy, and how this was informed by children's perspectives.

Later in this chapter I explain how these two phases were conducted and the choices that were made. First I will present the epistemological and methodological framework of the research. In what follows I will first write about critical realistic epistemology, case study and appreciative inquiry as my approaches to the research questions. Then, I will clarify how the cases and participants were selected and will discuss the suitability of my data collection methods. Then, I

will explain how I undertook the analysis of my data. Finally, my reflections on the research, data validity and ethical issues will be discussed.

### **3.2. Critical Realist Epistemology (CR)**

As discussed in chapter 2, understanding the relation of structure and agency in the context of change and continuity is key to understanding children's rights. I argue that CR as an epistemology provides a useful approach to researching children's rights and its relevant issues (i.e. IHRICs' impact) as it takes both agency and structure into account and reduces the polarisation of the dominant dichotomies in children's rights theories.

CR philosophy sees the social world as both enabled and constrained by its economic, social, political and cultural structures (that are not unchanging). Within this structured and ordered social world, the agency of humans determines their actions in society (Archer, 1995). Human activity remains key to constructing social reality however, as the component people, objects, structures and powers of the social world necessarily interact with one another to create, recreate and transform reality (Bhaskar, 1998). Nightingale and Cromby (2002) argue that critical realist ontology permits a constructionist epistemology and conceptual and theoretical framework for evaluating the social constructs. This understanding avoids both posing structure and agency as a dichotomy and emphasising the reified power of structures or the individual power of human agency (Joseph, 2002).

As mentioned before (see 2.4), Mayall (2002) prefers Bhaskar's critical realism (1979) to Giddens' structuration theory (1984) - that was used by James et al. (1998) in the model of childhood. Mayall (2002) argues that Bhaskar does not overemphasise agency by understating the power of social factors (Craib, 1992; Layder, 1997). In the founder of CR ontology, society is not made out of actions of the agents, but its existence is dependent on them (Bhaskar, 1979). Mayall (2002) thinks that CR provides a helpful account for studying childhood as it describes change and continuity in children's experiences and takes account of 'different features of structures i.e. the ideologies, policies, established practices regarding childhood' (p.39) and the power relations between adults and children in addition to showing the strengths and weaknesses of agency.

In addition to Mayall, Alderson (2013), as an experienced childhood researcher with emancipatory approach towards children, finds CR valuable for her work due to its multi-dimensional and objective characteristics. Davis (2002), Porter (2002) and Willmott (2003) have also conducted qualitative research in the field of childhood studies with CR epistemology. Also, according to my literature review, the causal relation between IHRICs' function and their impact is influenced by the contextual features (Wrong, 1995) and the key issues of IHRICs' impact include both the agency and the structural factors (UNICEF, 2013). So, I find CR well-suited with the nature of my subject of study.

According to Sayer (2000), CR is compatible with a relatively wide range of research methods, but it implies that the particular choices should depend on the nature of the object of study and what one wants to learn about it. Therefore, CR sometimes implies combining extensive and intensive research designs. He explains that extensive research shows us mainly how common certain phenomena and patterns are in a context, while intensive research is primarily concerned with what makes change in specific cases (ibid). However, CR has been criticised for weakness in indicating how change (Delanty, 2011) and social ‘reproduction and transformation’ (Archer, 1982) happen. But, Pawson and Tilley (1997) have demonstrated that CR can explain change in social programmes through interactions between context and mechanisms and participants’ choices that are constrained by their previous experiences, beliefs, opportunities and access to resources.

Robson (2002) discusses that in CR informed social research, the *context* is important to how *mechanisms* work to facilitate or hinder actions that lead to an *outcome* (CMO configurations). Context, as Pawson and Tilley (1997) assert, includes social, economic and political structures, organisational context, staffing and participants while mechanisms could be theoretical mechanisms (e.g. their analytical approach to implementing the CRC) and strategies. Hewitt et al. (2012) have shown that evaluating the outcomes through including the mechanisms and the social and political context demonstrates what works well, for whom and in what circumstances. CMO approach to social research stands somewhere between the middle range theory of Merton which mainly focuses on institutional aspects of society; and Glaser and Strauss’s grounded theory that is built upon social interactions (Layder, 1993). Therefore, it is most pertinent to the study of IHRICs as it is connected to children’s rights - which according to chapter 2, is affected by both social structures and interpretations.

### **3.3. Case Study Approach (CS)**

Case study is an approach to researching simple or complex systems - bounded in time and place (Stake, 2003) - by situating them in their context and through the help of multiple sources of information (Cresswell, 1998). The CS approach provides rich insight into phenomena (Robson, 2000) by seeking underlying reasons and processes of how outcomes are achieved in an effective action (Gillham, 2000). Therefore, CS approach has a place in evaluation research (Robson, 2002) especially where outcomes are not clear (Yin, 1989) which is a fact about IHRICs (see 2.10). CS combines agency and structure by putting people’s actions in a social context (Gillham, 2000). So, it is compatible with critical realistic epistemology. It lies in between theory testing and theory building; therefore brings micro and macro analysis closer together for studying different dimensions of social reality (Layder, 1993). The strength of the CS are its explorability and representability (Larsson, 1993) in addition to the use of a variety of evidence, including documents, interviews and observation and a range of perspectives (Stake, 1995).

For all the above characteristics of CS, I have chosen it for my research. Although some researchers prefer a flexible approach to studying the cases where data collection and analysis determines the design (Robson, 2000), I took Stake's (2003) view to CS which is more structured; the design leads to case selection and data collection, seeking patterns and themes, triangulation and generalisation. For my research, I felt the need for more than one case as Yin (1984) recommends a 'replication' strategy in CS by seeking whether the patterns found in the first case match the patterns of the other case(s). Studying more than one case is especially important as it provides comparison chances (Glaser and Strauss, 1970 cited in Huberman and Miles, 1994) and cases can be used to study a phenomenon in different contexts in order to generalise (in the sense of 'cross-case analysis and learning') rather than making 'general' conclusions (Yin, 1989).

But, as case studies are within real life situations, controlling the selection of cases and participants were not completely in my hands (Yin, 1989). As aforementioned, I chose to conduct a survey with ENOC members as these 42 institutions at that time comprised all European IHRICs, so that a survey would provide me with the richest possible data (Lofland and Lofland, 1985) about their overall CMO patterns. The survey helped me in finding out about ENOC members' intended and actual impacts for further stages of the research on how to evaluate them, and identifying the interested institutions as the potential case studies for second phase of my research where I paid more attention to mechanisms by studying the cases' projects.

In selecting my case study institutions, my criteria included issues of language, convenience of location, accessibility and response to the questionnaire. After conducting the survey and identifying the interested ENOC members I attended ENOC annual conference in 2012 and was mainly approached by the Ombudsman for Children in Finland (Lapsiasia) and the Northern Ireland Commissioner for Children and Young People (NICCY). All of these made me select NICCY and Lapsiasia. The chance of comparing an institution inside the UK with one outside seemed advantageous. It would have been ideal to have an IHRIC compared to an ICRI, but studying the impact of the interested IHRICs was not possible due to language and accessibility issues and/or very young age of the institutions. But, beyond that, their differences and similarities were taken into account in terms of case selection; Both Lapsiasia and NICCY are in North European countries and were established nearly at the same time in 2000s as ICRI, and in both cases their Commissioner/ Ombudsman had a political background. There were, however, differences in their funding, number of staff, mandate, and particular contextual issues such as conflict and poverty in Northern Ireland, welfare state and municipalities in Finland. Also, NI is a semi-autonomous region and Finland is a nation-state. It was hoped that their similarities and differences can add to the validity of the data and help in generalising the findings to other European ICRI as both Lapsiasia and NICCY can be representatives of European ICRI. I also had a focus on how the differences in the context of the two institutions could lead to different or similar mechanisms and impacts. Comparing two institutions cannot of course represent all the

differences of their contexts and issues, but the detailed and specific analysis of their differences in addition to studying their commonalities helped in answering my research questions on the impacts IHRICs make and how that can be evaluated. The detailed comparison made between the two institutions illustrated some of the ways in which contextual factors can shape the operation, the challenges and potential and actual impacts of IHRICs. The survey also showed that ENOC members face issues which are broadly similar. However, contexts differ in impacting on the presenting and tackling those issues. In this way comparative analysis helped to understand the broader context.

### **3.4. Appreciative Inquiry (AI)**

Appreciative Inquiry approach (AI) has been applied by social researchers to evaluate and improve organisations' functioning. Cooperrider and Srivastva (1987) - who developed AI - suggest that evaluation of an organisation should have four characteristics: appreciative, applicable, provocative and collaborative. Being an 'asset-based approach', AI focuses on assets to make positive change and seeks the 'secrets of success' in working units (Cooperrider et al., 2003). This is done because AI researchers believe that excessive concentration on dysfunctions may cause the organisation to function worse (Ibid), or as Reed (2007) puts it 'what one focuses on becomes one's reality'; so, if one has a particularly desirable image of the future, one is likely to behave in ways that will bring it about (Seel, 2003).

One of AI's main principles is the constructivist principle (Gergen, 1999); AI emphasises social constructionism and the agency of social actors when conducting evaluation (Coghlan et al., 2003). AI tries to engage all levels of an organisation to improve performance by engaging them in a dialogue concerning what is needed, in terms of both tasks and resources, to bring about the desired future (Appreciative Inquiry Net, n.d.a). In this way, AI helps to carry out evaluation as a tool for learning instead of judging (International Council on Human Rights policy, 2012; see 2.10.1). So, it has helped in reducing the negative feelings often associated with evaluation efforts and has increased affiliates' ownership and commitment to evaluation processes (Coghlan et al., 2003).

I decided to use elements of AI because, based on my experience of ENOC survey, I knew that IHRICs were not keen to undergo an evaluation and were concerned about being judged as ineffective as they were not confident about their work and its impact. They were also very busy organisations (i.e. Portugal and Belgium-Flanders) that identified they had not benefitted from the previous research projects they had participated in. Also, my aim was to work on evaluation as a reflexive, learning process for IHRICs rather than assessing them as unproductive and questioning their existence. Finally, I was interested in applying AI's emphasis on constructionism to find out more about social construction of children's rights and the impact of

IHRICs. Of course I took the weakness of AI in understanding the political context and power relations (Squirrell, 2012) into consideration, but I knew that through critical realistic epistemology and CMO configurations, those structural elements could be scrutinised in my research.

In evaluating an organisation, AI can use individual, pair or group interviews, written accounts, observation, documents, reports, secondary data analysis, context data and creative methods. AI is inclusive and pragmatic (Reed, 2007). In its interviews, AI has a 4-D cycle:

- 1) Discovery: Appreciating what has given life and energy to the organisation in the past and present. This phase usually involves interviews around the topic chosen.
- 2) Dreaming: Envisioning what might be possible for the organisation in the future. [based on the previous achievements].
- 3) Designing: Participants work together to craft plans for the future and what the organisation should aim to achieve.
- 4) Delivery: Involves thinking about specific activities and actions and making commitments to tasks and processes for achieving the objectives in the previous stages (Appreciative Inquiry Net, n.d.b)

In 'Discovery', the first questions asked would focus on stories of best practices, positive moments, greatest learnings, successful processes, generative partnerships, and so on. This enables the system to look for its successes and create images of a future built on those positive experiences from the past (Watkins and Mohr, 2001: 183). 'Dream' builds on the outcomes of the discovery phase, but it may require participants to forget about the usual restrictions of resources and relationships for a while (Appreciative Inquiry Net, n.d.b). In appreciative evaluation either the entire AI cycle can be used or only an AI approach can be applied (Coghlan et al., 2003). For instance, using just the 'Discovery' phase of AI and appreciatively worded questions could result in obtaining valuable information (Hanson Smart and Mann, 2003). For this study, due to the restrictions of time and accessibility, only the 'Discovery' and 'Dream' phases were applied for data collection in the form of individual interviews. Although a full application of AI was not taken in this project, using particular aspects of it proved to be valuable and helped in encouraging IHRICs to take part in the research.

Because AI focuses on the positive and is grounded in participants' actual experiences, it will give them a 'sense of confidence and affirmation that they have been successful'. It is hoped that they will know how to 'make more moments of success' (Hammond, 1996: 7). As IHRICs are in a vulnerable situation due to limitations to their independence and resources, especially within the current financial crisis, I was hoping that AI would point out their assets and thus the necessity of their existence to their funders. As my encounter with the participants was very short, it was not possible to make sure about the impression of AI on them. But, during the one hour interviews,

if they started as unsure about the assets and achievements of the case study institutions, by my emphasis on the strengths and effectiveness, they would start thinking and remembering a positive point or a successful project. But for stakeholders, especially those with critical ideas about the institutions, focusing on assets of the institutions and their programmes proved to be difficult. However, they were hoping to improve the impacts of institutions through criticising them and contributing to the 'Dream' phase of AI.

AI has been criticized for being unbalanced and uncritical in its 'overemphasis' on highlighting the positive. It may even, ironically, discourage inquiry by discouraging constructive criticism (Golembiewski, 2000). However, I did not silence my participants when they would start criticising the institutions and throughout analysis of the interviews, it was taken into consideration that the glass half-full philosophy of AI should not necessarily exclude the recognition of programme deficits or the need for improvement (Hanson Smart and Mann, 2003). As aforementioned, AI was mainly used as a means of encouragement and persuasion in communication with the institutions and in the interviews. But I am hoping that the remaining processes of the 4-D cycle could be practiced through completing the evaluation template I have designed (see 7.5).

### **3.5. Data Collection**

So far I have argued that for a CR theory building, CS and AI as my selected research approach are suitable for acquiring qualitative data. In this section, I will write about my sources of data and how they addressed my research.

Like the previous evaluations of IHRICs (see 2.10.2.2) I took advantage of documents, questionnaire, interview and observation. Unlike most of them I did not plan an assessment of children's awareness of the institutions as the level of awareness was reported as low in previous evaluations of IHRICs. Furthermore, an informal survey of children and young people at the International Childhood and Youth Research Network Conference 'Children, Young People and Adults: Extending the Conversation' held at UCLAN in September 2012, showed that only 33% of them were familiar with the Commissioner for children and young people in England (see Appendix 2). The fact that most of these children who attend this kind of event were not aware of their Commissioner for children and young people confirms findings of the other IHRICs' evaluations with regards to low levels of awareness of IHRICs in children and young people. For this reason, in addition to considering the constraints of time and resources for this doctoral project, there was little point in assessing children's awareness of the Offices as one of the categories of this research project.

Documents may be used for systematic evaluation (Bowen, 2009; Corbin and Strauss, 2008) and will add to knowledge about the case study (Yin, 1989). So, in a process that

started prior to designing the survey and lasted until the end of data collection period, I tried to familiarize with the context and work of IHRICs through studying the relevant documents (i.e. reports of the annual conferences of ENOC, news and publications of IHRICs especially NICCY and Lapsiasia, and their action plans and annual reports) in addition to accessing their websites on a regular basis. Alongside the fieldwork I studied documents for main and supplementary data i.e. action plans for aims and priorities, annual reports for inputs and outputs, websites for child friendly resources and ENOC website for best practices of its members presented to annual conferences in order to refine my ideas and check the fitness and relevance of categories of survey and interview transcripts (Charmaz, 2003). I mainly used institutions' websites, their annual reports, action plans and publications as sources of document analysis. As Bowen (2009) has recommended, these documents were authentic, useful and accessible. The annual reports and action plans were comprehensive and relevant to the research purpose. They covered a long span of time, therefore helped in tracking change and development in the institutions. They also included the details of the events and programs. Prior to the field work, I started analysing these documents with the aim to become familiar with the work of the institutions and I was searching themes of context, mechanisms and outcome. I also used these to design survey questions. This helped me in identifying similarities, differences and general patterns and contextualising other data I had collected and verifying my findings.

For my survey with ENOC members I used a questionnaire that was designed to be concise and simple to complete in order to maximise the responses from busy institutions. It was presented in English and French versions (see Appendices 5 and 6) since it was thought that most institutions would be able to complete it in one of those languages. By the means of a combination of open, semi open and ranking questions (Wisker, 2007), institutions were asked about their priorities, challenges, impact and their experiences of evaluating and monitoring their work (see Appendix 5). Conduct of the survey took a relatively long time and needed my constant follow-up mostly due to time constraints of the institutions.

I also used semi-structured interviews for studying my two case studies with the aim to address the two processes of AI 4-D cycle ('discovery' and 'dream'). My main questions were about the strengths and achievements of NICCY and Lapsiasia, and their impact on law and policy. Additionally, participants were asked about their best experiences of working for/collaborating with the institutions and their dreams for the future of it. I chose semi-structured interviews as they can be used in case studies for accessing in-depth perspective of the participants (Gillham, 2000) and inviting them to express their ideas openly and freely (Hancock and Algozzine, 2006; Hall and Hall, 1996). I also took notes during and after the interviews for remembering and cross-referencing what I learned during the interview (Repley, 2004; Hancock and Algozzine, 2006).

In my cover letter, I would promise the participants that the interview sessions would not take more than an hour of their busy time. However, my approach in managing that limited time of the semi structured interviews was to ask open questions which gave them the space to reflect on issues of most interest and importance to them. Some took less time, especially the young people and those Finnish participants who felt uncomfortable with their English skills and a few of the interviews took more due to enthusiasm of the interviewees. Interviews with the Commissioner and the Ombudsman and their team were held face to face, during my visits to their offices. This was also the case for an adult stakeholder of Lapsiasia and two of the young people there. A few of the other interviews were held via Skype meeting and the rest of the interviews were in the form of phone interviews. Phone interview as a data collection method is well supported by literature on qualitative research (Robson, 1993; Burnard, 1994; Carr and Worth, 2001). For all of the interviews taken I gained consent of the participants for audio-recording the session. Six participants were interested in taking part in the research, but not in the form of interview for different reasons; hearing disability (2 adult stakeholders of each of the case study institutions), language skills (2 young people advisors in Finland), or unwillingness to being interviewed (2 young people advisors in NI). So, I sent them a set of more detailed questions that I had found useful in my previous interviews and they sent their written accounts back to me.

In addition to the above sources of data, I had brief chances of observation that were limited by time and budget restrictions. I attended the annual conferences of ENOC for three years where I could see the members networking and communicating their concerns. Besides, my very short visits to NICCY and Lapsiasia were arranged after they accepted my proposal. During that limited time, I also had to conduct my face to face interviews with the Ombudsman/Commissioner and selected staff; and three stakeholder participants in Finland. I also met my research 'buddies' at that stage who had substantial local knowledge and were introduced by Professor Thomas.

Despite the limitations I faced in observing my case study institutions I tried to take the best advantage of all those chances as I thought observation can provide rich qualitative data (Silverman 2013), sometimes described as 'thick description' (Geertz, 1973), especially for case study when it is put together with interview (Yin, 1989) and human behaviours are observed in their contexts. When entering the field, I did not approach the observation with pre-determined categories in mind (Geertz, 1973) and my strategy for deciding what to look at and how to look was 'Observations of nothing in particular' (Wolcott, 1981) for the validity of my data. I took notes of whatever I found surprising or confirming my previous knowledge of the subject of my research.

Data Collection						
Document		Questionnaire	Interview		Observation	
			42 Rounds of mainly one hour interviews			
NICCY	Lapsiasia	28x Questionnaires, Completed by ENOC members	NICCY	Lapsiasia	NICCY	Lapsiasia
2003-2014	2005-2014			20 interviews: 2x Commissioner 2x CEO 6x Staff 10x Adult Stakeholders	21 interviews: 3x Ombudsman 6x Staff 10x Adult Stakeholders 2x YP	1 Day Visit to the Office
ENOC Website NICCY Website Lapsiasia Website Annual Reports, Action Plans, Publications...		6 participants wrote their replies to interview questions due to hearing disability (2 adult stakeholders of each of the case studies), language skills (2 YPA in Finland), or unwillingness to being interviewed (2 YPA in NI).	1x ENOC Expert		<b>ENOC annual Conferences</b>  2 Days each year 2012-2014	

### 3.6. Participants

#### *Phase 1*

Questionnaires were sent to 42 institutions of which 28 eventually responded, making a response rate of 67%. Those who responded were the institutions for<sup>3</sup> Armenia, Belgium (Flanders), Bosnia and Herzegovina (B&H), Croatia, Cyprus, Finland, Greece, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Northern Ireland, Norway, Republika Srpska, Scotland, Serbia, Sweden, Vojvodina, Wales and X (Full Members); Slovak Rep, Hungary, Georgia, Portugal, Y, England (Associate Members). Among them, 10 out of 27 (37%) were IHRICs and 63% ICRIIs. Four institutions declined to participate (Denmark, France, Poland and Russia); the

<sup>3</sup> Two of the respondents asked for anonymity. They will be called X and Y

remainder did not reply, despite repeated requests. Official posts of the individuals who filled in the questionnaires were as follows:

- Commissioners/ Ombudspersons (6)
- Deputies (Responsible for children's rights)(4)
- Head of Children's Right Unit (6)
- Advisors (9)
- Officers/ Coordinators (3)

### *Phase 2*

Based on literature and ENOC survey I asked NICCY and Lapsiasia for permission to interview the heads of offices, those members of staff who work on law and policy and/or child participation, young people advisors, and stakeholders from NGOs and government departments. The institutions suggested adding people from other sectors as well and gave me a list of potential participants. This initiated a snowballing that continued by the other individuals recommended by the first series of participants. Considering the fact that I was using selected elements and phases of AI for interviews, this strategy for identifying the research participants did not result in a complete bias towards positive comments as the stakeholders reported a range of views, positive, mixed and negative. Following the institutions' recommendations for who to interview could have led to a biased sampling with critical stakeholders being excluded. I tried to avoid this by asking those participants I found critical to introduce me some people to contact for making an interview, and this helped in snowballing the stakeholders that the institutions had not recommended.

With regard to young people advisors, the institutions acted as gatekeepers and not always as helpful as they might have been. Lapsiasia did a bit better than NICCY by organising two interviews with the young people that were working with them as young people advisors or survivors groups. Then, the office gave me the contact information of their other members of young people advisors with their permission. After sending multiple invitations, two of them sent me their written accounts in response to my questions. NICCY told me no young people were interested in taking part in the research and did not let me contact their young people advisors to invite them for interview directly. After my insistence, two young people agreed to write to me their replies. This unwillingness and inaccessibility of young people advisors was observed also by an academic researcher who had performed multiple research pieces for NICCY. As I had no more contact with the young people advisors, it is not easy to decide whether they thought taking part in this research was not among their duties or the institutions did not take their role in impact evaluation seriously and communicate the importance of young people advisors' participation to them.

**Lapsiasia:** I interviewed the Ombudsman for Children in Finland and 6 Staff out of which, 4 were current and former senior officers of the Office in addition to 11 adult stakeholders from the following sectors and four young people, of whom three were members of the youth panel and one from the Survivors Group.

SECTOR	Government Departments	NGO	Municipality	Other Ombudsmen	University	Religious Organisation
Number of participants	2	2	2	2	2	1

**NICCY:** I interviewed the Commissioner, the Chief Executive to the Commissioner and six Staff of whom three were the heads of teams and three were senior officers of the Office, in addition to 11 adult stakeholders as shown in the table below and two young people; one a previous member of the youth panel and one from the Participation Awards Group.

SECTOR	Government Departments	NGO	Legal Professionals	University
Number of the Participants	2	5	2	2

### 3.7. Data Management

My data comprised questionnaire responses, relevant documents, transcribed audio recorded interviews and field notes of my observations. I tidied up my data by labelling, copying and putting them in chronological order (Le Compte and Schensul, 1999). This helped me to describe what I came to know at different points in the process of data collection (Wolcott, 1994). According to Maxwell (2002) this process adds to ‘descriptive validity’ (p.45). I did the process of transforming and data reduction (Yin, 1989) selectively as I was using a range of methods of data collection and analysis (Wolcott, 1994). I admit that in this process of describing, reducing and representing what I observed, heard, felt and learned, there could be ‘reduced versions’ of reality based on what I ‘prioritised’ or ‘left out’ (Flewitt et al., 2009: 45) which could have impacted on ‘descriptive validity’ (Maxwell, 2002).

Time	2011- 2012	2012		2012-2013	2013			2014	
<b>Data collection</b>	Start reviewing the relevant documents of ENOC and IHRICs  Winter 2011-Spring 2012	ENOC Survey  May – September 2012	Reviewing the relevant documents of NICCY and Lapsiasia  Autumn 2012-Summer 2014	Visit to NI and interviews with the Commissioner and Staff  May 2013	Visit to Finland and interviews with the Ombudsman and Staff  May 2013		Interviews with stakeholders and initial analysis of them	Interview with the Ombudsman after leaving the Office  May 2014	
<b>Data analysis</b>		Initial analysis of the questionnaires  Summer 2012		Further analysis of the survey  Winter 2012 and Spring 2013	Initial analysis of the interviews  May and June 2013	July-August 2013	Further analysis of all the collected data and working on the evaluation template Autumn 2013	Further analysis and writing up of the findings chapters  Winter 2013-2014	
<b>Associated activity – ethics</b>	Ethical approval for the survey  Spring 2012			Ethical approval for the Case studies  Winter 2012					
<b>Associated activity – consultation and networking</b>		Seeking consultation from ENOC expert P.Newell for the design of the case studies  Summer 2012	Attending ENOC annual conference Cyprus September 2012	Proposal preparation and negotiation with the selected case studies Autumn 2012		Attending ENOC annual conference Belgium September 2013	Seeking consultation from ENOC experts P.Newell and V.Sedletzki  December 2013	Interview with and seeking consultation from ENOC expert T.Waage  January 2014	Feedback from the case studies on the template  Winter 2014
<b>Associated activity – presenting and sharing</b>		Presenting the initial findings of the survey  Sheffield July 2012		Presenting the findings of the survey  Liverpool January 2013	Data sharing with the Commissioner and the Ombudsman  August 2013	Presenting the initial findings of the case studies Belgium September 2013		Attending ENOC annual conference Scotland  October 2014	Presenting the evaluation template  Leiden November 2014

### 3.8. Data Analysis

Analysis is multi-layered and starts during data collection (Huberman and Miles, 1994), and involves analysing the data, noting patterns, finding themes and categories and comparing/contrasting, in addition to moving back and forth between the data and the categories used (Miles and Huberman, 1994). Silverman (2010) recommends ‘early data analysis’ before all the data is available or even if all the data is in hand (for a very limited amount of that data) for good qualitative research. This provides a good initial grasp of the analytic themes for exploring them in further data collection (Repley, 2004). This is ‘intensive analysis’ which can be tested by ‘extensive analysis’ of the whole data set (Silverman, 2011).

I entered the answers to each question of the questionnaire in a table in an Excel file. I also handwrote the transcripts of my interviews and then made a table of all the helpful and meaningful quotes that were either adding to my knowledge or confirming other responses and phrases in them for comparing and contrasting the different responses. I repeatedly listened to the recordings of each interview for transcribing it and after that for ‘generating, checking and refining’ my analytic instinct by asking the participants about them in further interviews (Repley, 2004).

My data description process (management) was followed by a sharper focus on exploring the meanings of the data by using systematic procedures (Wolcott, 2001). The initial process was to generate codes according to my research questions. According to Miles and Huberman (1994), codes are labels for attributing units of meaning to the descriptive data. Coding can be done by tagging data in different sizes from words to paragraphs. For this process of categorising, I tried to generate codes from my data at each mode for identifying the themes (Coffey, 1999). I did this first by deductive approach to coding based on the themes emerging from my research questions and literature review.

***Examples of Analysis***

In coding the data of the survey, three of the pre-made main categories were ‘implementing the CRC’, ‘influencing law and policy’ or ‘raising awareness of children’s rights’. I used these codes as an initial framework for analysing my multimodal data. This framework helped me in exploring the inductive themes with a broader perspective (Huberman and Miles, 1994).

<b>Example of Inductive coding in the survey</b>	
<b>Theme</b>	Impact
<b>Category</b>	Implementation of the CRC
<b>Sub-category</b>	Protection and Provision Rights
<b>Code</b>	Children facing domestic violence
	Children in care system

Sample of deductive codes for the questionnaires (emerging from the documents and literature review):

- 1) Promoting children’s participation (e.g. our impact has been establishing children’s involvement in decision making on the cases related to their lives as a regular procedure)
- 2) Influencing law and policy (e.g. we have tried to make the rights of the child visible in the political agenda, and we expect the adoption of a Child Act this year)

These codes were continued in the analysis of the interviews, too. In the same way, coding of the interview transcripts was done which led to either new emerging concepts e.g. ‘follow up’ or ‘personal capacities’ or confirming the concepts of the survey. So, in a way I was moving back and forth between induction and deduction (LeCompte and Schensul, 1999) which are mixed in identifying the themes (Huberman and Miles, 1994).

As the interviewees’ accounts are ‘part of the world they describe’ (Hammersley and Atkinson, 1995: 107) and ‘embedded in a social web of interpretation and re-interpretation (Kitzinger, 2004:128), I decided to enhance my data analysis. Therefore, in addition to coding, I used Critical Discourse Analysis (CDA) for interpreting the interviews. This helped me to relate them to their referents and contexts (Sayer, 2000) and to compensate the weakness of AI in studying the structural factors (Squirrel, 2012). I chose to do this as I felt that in addition to the categorised data and in order to make a better use of them, I needed making some ‘situated meaning’ (Gee, 2005: 57) especially because participants’ answers were carrying some socially situated implications for instance, views of participants from government sector were more or less the same and mostly critical to the work of the case study sites. So, there were some ‘patterns of similarity’ that CDA could address as ‘genres’ of the text (Swales, 1993).

Discourses carry the capacity to define situations, identities, roles and relationships between people (Parker, 1994; Potter, 2002) and for analysing them, CDA can use transcripts of talks, observations, documents or interviews (Potter, 1997). Critical discourse analysts such as Fairclough (1992) and Van Dijk (2003) are located in a subjectivist, interpretivist and social constructionist paradigm and argue that discourse is inherently influenced by social structure and produced in social interaction (Cameron, 2001). CDA aims to offer a different ‘mode’ or ‘perspective’ of theorising, analysis, and application throughout the whole field. The typical vocabulary of many scholars in CDA will feature such notions as power, ideology, discrimination, interests, reproduction, institutions, social structure, and social order (Van Dijk, 2003).

As Fairclough (1989) emphasises, CDA is necessarily an insider task. The self-conscious CD analyst should bridge the gap between herself and the researched through the widespread development of rational understanding of, and theories of society. This analysis might proceed to deconstruct and challenge the texts, tracing ideologies and assumptions underlying the use of discourse, and relating them to different views of the world, experiences and beliefs (Clark, 1995). In his highest level of analysis, Fairclough (1989) tries to discover the following in a discourse:

Social determinants: what power relations at situational, institutional and societal levels help shape this discourse?

Ideologies: what elements of discourse have ideological characters?

Effects: how is this discourse positioned in relation with struggles at the situational, institutional and societal levels? Does it contribute to sustaining or transforming existing power relations?

It should be noted that my unit of study in CDA was mainly the whole text of the transcribed interview. At the last stage of interpretation, these analyses were put in the context of NI and explained according to the relevant literature on children's rights and evaluation approaches.

For analysing my field notes, I decided to work on them as 'settings' and 'scenes'. By setting, I am describing the physical circumstances of what is observed (i.e. the place of the interview) and scene refers to the psychological or cultural definitions of setting (i.e. characteristics of the interviewees) (Hymes, 1974; Spradley, 1980). These initial interpretations were later supported by my other sets of data and further analysis.

As my data had several modes (textual, verbal and visual) I approached them as interconnected (Jewitt, 2009). My different sets of data needed to be dealt with as 'pieces of a puzzle' to make the whole story (Nelson et al., 2008). So, I did not separate my modes of data, but worked on analysing them together. To do so, I found a helpful analysis procedure which was Wolcott's (1994). In his 'Description, analysis and interpretation Framework', he suggests cross referencing the multimodal data and different stages of research for dealing with interrelationships. The last stage of interpretation and critical realistic theory building (Bhaskar, 1998) involved zooming in on the components of a complex phenomenon (here, impact of IHRICs) and describing the causes of those components - here, context and mechanisms of IHRICs (Kazi, 2003). This helped me in figuring out the best practices of my case study institutions and developing a template for evaluating their impact (see 7.5).

### **3.9. Quality of the Research**

In combining my data collection and analysis methods I took into consideration their compatibility with critical realism and my interests and skills in addition to the funding and time restrictions of the project (Wolcott, 1992). The range of data sources and methods I used in this research provided me with the chance of checking the validity of data and realising the valid assumptions out of those data (Kirk and Miller, 1986). I checked my findings in different ways; double checking with the participants (factual accuracies, data sharing with the institutions, asking the research buddies) for checking I was not over relying on a single participant and I understood the issues well (Mason, 1996; Hammersley and Atkinson, 1995). Besides, in comparative case studies conducted, explanations of one institution were often confirmed or rejected by the other case (Manning, 1982; Miller, 1982).

I followed up the surprises (Cohen et al., 2000) and made prolonged engagement with my data by constantly reviewing them (Guba and Lincoln 1989; Creswell, 2007). In addition, I took advantage of peer debriefing by presenting my work at the conferences at different stages of the

project (Robson, 1993) and my findings were approved by my supervisor (Holloway and Wheeler, 1996 cited in Long and Johnson, 2000).

### **3.10. Reflections**

My positioning in the research has been as an inexperienced evaluator who wants to use AI with a mind that is mostly critically-oriented. As an outsider to my case study institutions, I was concerned about my capabilities of carrying out an authentic piece of research. But, as advised by my research buddy in NI, I tried to consider this as an asset that would let me remain an unbiased outsider, especially to the troubled context of NI. I have tried to make my enquiry evidence-based, reflexive and have tried to avoid bias (Hammersley, 1992; Hall and Stevens, 1991); as a woman who has suffered and advocated for amendments in laws regarding female citizens, I used to place a greater weight on the role of law in social construction. However, throughout this research, I learnt that the law does not cause much of a problem in every context, but the way in which it is implemented needs improvement.

As an outsider to European countries and organisations, I found some things that were completely different from what I had previously experienced in the field of childhood studies, but, surprisingly, many issues were familiar to me. I came to realise that notions of childhood and children's rights are problematic, not only in the context from which I coming, but even in places where children's agency and participation has been debated for nearly half a century.

I was initially looking for some children's rights indicators for evaluation, but subsequently realized that they could not help in evaluating the impact of IHRICs. Although there are no evaluation indicators in the evaluation template I developed (see 7.5), institutions could adapt the template and use it to develop impact evaluation indicators for that too. I did not have enough time and collaboration of my case study institutions to design evaluation indicators. One important reason why I avoided working on indicators was that I did not want my template to be comprised of simply tick boxes that could be filled in very quickly without provoking any thought.

Were it possible to go back to the beginning of the research, I would consider how busy IHRICs are and take that seriously in time management of the project. I would seriously reflect on conducting the survey as its design, ethics approval, collection, analysis and writing up took nearly one year of my limited time. Even if I would decide to do the survey, I would amend some of the questions of the questionnaire to make it clearer for some respondents. I would give more weight to the involvement of young people in my proposal for institutions and request more chances for observing their meetings and activities. Although lack of collaboration of mainly NICCY and then, Lapsiasia was the main cause of low participation of young people in my research which ironically reflects issues of child participation and I am not sure that even by insisting more I could have done better. Although I admit that my sample might not be representative of young people advisors, I should note that their replies were not different from

each other and mainly were repeating the accounts of the heads of offices and their teams. This might imply that young people advisors are not asked to think differently, or they did not trust me to share their critical reflections with me. If it was possible, I would perform more than one interview with those stakeholders who were critical to the case study institutions' work, go back to the institutions and ask about those critics. Due to the limitations of the project and appreciative ethos of the evaluation, this was not done.

English is not my first language and I was not familiar with the Irish accent. Had I been better at it, I would have been better at communicating and more in depth interrogating while during the interviews. Although interviewing most of the Finnish participants was limited owing to their lack of confidence in speaking in English, I tried my best to make sure I had understood them well. Although they had the option of completing the questionnaire in French, only one of the ENOC members used it and the answers were very short and my supervisor offered to translate them for me and no further issues were raised out of it. With regard to language differences throughout the research, I admit that as Merton (see 2.10.2.2) and Cohen et al. (2000) state, there might have been some minor misunderstandings due to the difference of language.

### **3.11. Ethical Issues**

The research was designed according to UCLAN's code of conduct of research i.e. honesty, informed consent, confidentiality, recording and publishing data (see consent forms and cover letters in Appendices 3-6, 12, 14-16). Ethical approval was applied for twice; prior to the survey and pre-case studies. It was approved by the UCLAN's Research Ethics Committee for Social Work and Psychology. With regards to the survey, respondents confirmed their consent to the questionnaire by signing the declaration below, indicating if there were any responses which they preferred to keep confidential; two of the respondents asked for anonymity. Another respondent requested confidentiality for its responses to some questions in the questionnaire. Two other respondents asked for a pre-publication review of the report of the survey.

Regarding the second phase of the project, the case study proposal indicated that participating institutions would be asked to address any issues in consultation as some of the findings might be politically sensitive. They would also be offered the opportunity to witness and comment on the report of the research and any such material before publication. All the individual participants consented to their interviews being audio-recorded and their responses being used in the research and included in the published findings, without being identified personally. Three interviewees asked for the opportunity to check for factual accuracy. Another ethical consideration has been how to refer to the information provided by research buddies who are known to the staff of the institutions. The other point was raised when the Ombudsman for Children in Finland resigned. It was not clear to whom, ethically, the final report of this research project should be handed in. It was decided that the report should be made to the persons holding office at the time of

presentation and their predecessors at the same time. After the report was sent to the case study institutions, there were questions raised by them. The resigned Ombudsman in Finland sent her comments, but NICCY never did this. I could categorise Maria Kaisa Aula's comments into three groups: additional information (or some minor correctons) regarding details of their activities, her disagreements with mine or my research participants' critics to Lapsiasia's strategies (e.g. diversity of youth panel advisors, reconstructing her own childhood, networking with church, and child well-being indicator project), and language issues including reflecting on her application of English, and explaining what she had really meant. I have taken the points raised by her into account and will discuss my responses to her objections in chapter 7, and will send an amended report to her as soon as possible.

I had made child friendly cover letters and consent forms for children and young people (see Appendices 13, 14, 15) however, all of those young people who eventually participated in the research were older than 18. During the very few interview sessions that I had with young people - who were from Finland - I was accompanied by my research buddy who previously had worked as the participation officer at Lapsiasia and knew those young people. So, they trusted her and also asked her help in communicating in English whenever they needed that during the interview. Although they had been informed about me and my research by the institution, I would briefly introduce myself and what I was studying before starting the interview and ask them to sign the consent form only if they really wanted to take part. I would also add that they could withdraw from the interview whenever they wanted to. None of the young people asked for anonymity or confidentiality although it was offered to them by me.

## CHAPTER 4: FINDINGS AND ANALYSIS 1- SURVEY

### 4.1. Introduction

The questionnaire for surveying ENOC members was designed to be simple and short to maximise the responses from busy institutions, and it was presented in English and French versions (see Appendices 5 and 6) since it was thought that most institutions would be able to complete it in one of those languages. Only one institution (Luxembourg) used the French version of the questionnaire which was translated to French by Cath Larkins and I did not face translation issues as their replies were in the form of words and short phrases and were translated to English by Professor Thomas. The design and approval by the ethics committee took nearly three months and an additional three months were spent on the follow up procedure.

The survey was administered in May-July 2012. Questionnaires were sent to 42 institutions of which 28 eventually responded, making a response rate of 67%. Those who responded were the institutions for Belgium (Flanders), Bosnia and Herzegovina (B&H), Croatia, Cyprus, England, Finland, Greece, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, X, Northern Ireland, Norway, Republika Srpska, Scotland, Serbia, Sweden, Vojvodina and Wales (Full Members); Armenia, Slovak Rep, Hungary, Georgia, Portugal, Y, (Associate Members). Among them, 10 out of 27 (37%) were IHRICs and 63% ICRI<sup>4</sup>. Four institutions declined to participate (Denmark, France, Poland and Russia); the remainder did not reply, despite repeated requests.

Six questionnaires were completed by the Ombudsperson or Commissioner (Luxembourg, Northern Ireland, Finland, Wales, Iceland, Italy); four by Deputy Ombudspersons responsible for children's rights (Serbia, Croatia, Vojvodina, Greece); six by the head of a children's rights unit (Norway, Georgia, Hungary, Armenia, Bosnia & Herzegovina, Latvia); nine by advisors (X, Slovakia, England, Sweden, Lithuania, Belgium (Flanders), Republika Srpska, Y, Portugal); three by officers or coordinators (Scotland, Ireland, Cyprus).

Two of the respondents asked for anonymity. They will be called X and Y<sup>5</sup>. England asked for confidentiality for its responses to questions 1-4. These requests came from advisors to those institutions that completed the questionnaire. It might have been due to some confidence issues; maybe they were not 100% sure about their responses or did not want to get into any trouble. Replies from the Commissioners and Ombudsmen addressed the questions in fuller and non-contradictory answers, maybe because these Offices sometimes turn to Ombuds-led institutions

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<sup>4</sup> IHRICs (Vojvodina, Hungary, Armenia, Georgia, Portugal, B&H, Greece, Y, Slovak Rep and Serbia) are integrated to a human rights institution and the rest are ICRI which are independently and separately established institutions.

<sup>5</sup> See the note for examiners

(see 2.9.2). Also, these people are the ones who usually attend ENOC meetings so they were familiar with the content of the questionnaire.

## **4.2. Context, Mechanism and Outcome**

As aforementioned in the methodology chapter, the focus was on CMO (context, mechanism and outcome) of ENOC members in this survey. So, the questionnaire was designed to shed light on the context in which IHRICs are working, mechanisms of their work and their short and long-term outcomes (impacts).

### **4.2.1. Context**

Four questions of the questionnaire were about contextual factors of European IHRICs and ICRIs. These were about these institutions' sources of assistance, obstacles, frameworks and stakeholders' influence.

#### *Sources of Assistance*

These could be categorised as IHRICs' organisational features as follows:

- Staff members, mandate and independence
- Frameworks: international (i.e. the CRC and UNCCRC's General Comments) and European (i.e. European Union Law and Case law of the European Court of Human Rights).
- Stakeholders and networks: at local and national level (i.e. authorities, professionals, NGOs, media, parents, children and young people). At European level (such as Nordic co-operation, Council of Europe and the EU Court of Justice) and international level (such as UNICEF and Save the Children).

Most offices in newly established democracies ( i.e. Croatia, Slovak Rep, Vojvodina, Hungary, Bosnia and Herzegovina) mentioned their national and local authorities, although they later ranked Government as, ideally, their least influential stakeholder. This might show their need to be supported by government while their independence is respected. Those who noted children as their sources of assistance were mostly from Northern Europe (Norway, Northern Ireland, Scotland and Wales). The only office that named a religious institution as its sources of assistance was Finland.

#### *Obstacles*

Obstacles identified by ENOC members may be categorised as: organisational features and structural barriers.

- Organisational features: shortages of resources (funds and staff) in addition to their national legal framework

Almost all members find inadequate budget and shortage of staff as their main obstacles except for Ireland who finds its 'budget and staffing allocations adequate although not optimal'.

Wales identified the Commissioner's remit on the issues such as asylum and youth justice that are not devolved to Welsh Government as a barrier. Sweden, Vojvodina, Greece, Ireland, Scotland and X pointed to their national legal framework as a barrier. For instance, 'the status of the CRC in Sweden has to be strengthened in order to achieve full implementation at all levels. The Ombudsman is advocating for the CRC to be incorporated into Swedish law'. Others reported the need for a children's act and the CRC to be respected especially by judges.

- Structural barriers: political, economic and cultural

Political obstacles included lack of political will and co-ordination and administration with regard to children's policies and services which 'leads to delays in the implementation of the Ombudsman's recommendations for a prolonged period' (B&H). Norway was the only one to mention 'Municipal self-governance' in this category. The Office seems to point to municipalities' differing policies due to their independence from the central government.

Economic obstacles included child poverty and cuts in budgets due to the recession. Cultural obstacles included lack of awareness of children's rights and negative attitudes to children and young people in society and media. Vojvodina pointed to children's lack of knowledge of child protection mechanisms and existence of the Office and Finland reported that 'in general adults (even those who work with children) lack interest in children's views and they ask why children should have only rights, not responsibilities'. Serbia added that 'professionals working with and for children [are] not sufficiently familiar with UN CRC, and especially not familiar with children's right to participation in all matters affecting them'.

Media was mentioned by most of the Offices as a source of assistance, except for Scotland and England (due to negative representation of children and young people), Y (that described media as a support and at the same time a 'barrier') and Vojvodina, where '[m]edia is mainly interested in child issues when it comes to severe human rights violations (e.g. violence, abuse, etc.), but [it is] not committed to pursuing a cause that would induce a long[er]-term positive change benefiting children's rights exercise and/or protection'.

Northern Ireland was the only institution to report NGOs as an obstacle as they sometimes have 'competing interests'.

### *Frameworks*

In addition to the UNCRC which is referred to by all members, the most common frameworks used by some of them were: CRC protocols, UNCRC General Comments and observations<sup>6</sup>, international Law, national legislation (including Child Acts), EU Law, Council of Europe's conventions and recommendations. These could be categorised in three national, European and International levels (see Table 2).

Level	Standard Setting	Implementation	Monitoring
International			
European			
National			
Regional & local			

**Table 2.** IHRICs' national, European and international mechanisms (Thomas et al., 2011).

In some countries like Slovakia and Norway, the CRC is 'part of law and the human rights are guaranteed by the Constitution. So, it is fully respected and applied in the work of the IHRIs' (Slovakia).

However, a majority of respondents require some additional frameworks or sometimes feel the need to go beyond the CRC:

'One of the significant advantages of the UNCRC is that it covers the full range of civil, political, economic, social and cultural rights of children and young people, and does so in one international treaty. It is very helpfully supported by General Comments and Concluding Observations issued by the Committee on the Rights of the Child...In addition The European Court of Human Rights and the UK Supreme Court are increasingly making reference to the UNCRC in judgements [...However,] there are occasions where we must seek to ensure children's rights go beyond and above those outlined in the UNCRC' (Scotland).

### *Stakeholders' Influence*

Participants were asked to rank in order of the actual and ideal influence of their following stakeholders:

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<sup>6</sup> Wales sometimes wishes that 'the Committee on the CRC would prioritise or reduce the number of Concluding Observations so that States Parties could focus attention on realistic 5 year programmes of work between reporting rounds.'

Stakeholders	Influence they actually have (rank order)	Influence they should have (rank order)
Children		
NGOs		
Government		
Media		
Parents		
Religious Organisations/ Churches		

After summing up the values that members gave to each stakeholder (like question 1, the one with the least total value turned out to be Government, then NGOs...).

For example, for actual influence, the sum for government was calculated this way; 7 members ranked it as the first, 3 members as the second, 2 members as the third and so on:  $(7 \times 1) + (3 \times 2) + (2 \times 3) + (1 \times 4) + (5 \times 5) = 48$

and for children:  $(8 \times 1) + (2 \times 4) + (3 \times 4) + (4 \times 3) + (5 \times 4) + (6 \times 1) = 66$ .

	Stakeholders' Actual Influence	Stakeholders' Ideal Influence
1	Government	Children
2	NGOs	NGOs
3	Parents	Parents
4	Children	Government
5	Media	Media
6	Religious Organisations	Religious Organisations

**Table 3.** Stakeholders' actual and ideal influence: overall rankings

IHRICs generally considered Government to be their most influential stakeholder. The way the stakeholders are ranked in order of influence by IHRICs reveals an important fact about the power of governments that mainly handle law and policy. The other influential stakeholders are NGOs and parents. The respondents' ideal is that children should have the most influence rather than government. This might later (in 4.2.3) explain why the institutions have chosen to influence law and policy as their first priority.

There have been different interpretations of 'influence' among institutions; for most of them, government meant power, while for some members (like Portugal and Hungary) children, parents and NGOs had influence due to their complaint-making rights. It should be mentioned here that most complaints are made by adults (parents and NGOs rather than children). This table will be discussed further (in 4.2.3) when analysing the actual and expected impacts of IHRICs/ICRI in the section on 'outcomes'.

The following are some of the explanations given by respondents on the actual influence of the stakeholders:

Children are the most influential stakeholders for Norway, Croatia, N.Ireland, Scotland, Sweden, Srpska, Wales and Greece. Sweden and Wales even ranked children as the first and other stakeholders as zero. In Luxembourg, Vojvodina, Belgium and Italy, children were the least influential and in Armenia, their influence was nearly zero (even less than religious organisations). This wide variation could reflect the differences in approaches towards children's rights in the region.

NGOs are the most influential stakeholder in IHRICs from Caucasus. Since the collapse of the Soviet Union, NGOs have played an important role in the democratisation process in its successor States. Also, assisting Caucasus countries continues to be a priority for international organisations in order to introduce democratic principles in those countries (OSCE, 2000).

Government is the most influential stakeholder for X, Luxembourg, Vojvodina, Finland, Hungary, Italy and England. Different institutions had their own definitions of relationship with Government and the ways it influences them: 'With Government we mean public administrations, this is why it has been our main stakeholder in the setting-up phase' (Italy), 'Ministers regularly ask us for advice on draft legislation concerning children - hence the importance and the number 1 assigned to the influence of the Government' (Luxembourg) and 'the government is the most influencing as we have the competence to examine authorities and laws, which are made by the legislative organs, and enforced by the government and its bodies (Hungary).

For Serbia, Norway, Republika Srpska and Portugal, government influence was zero as 'the Ombudsman is an independent institution, elected by the Parliament' (Serbia) (This does not seem a particularly convincing argument. Influence does not necessarily depend on control; none of the other stakeholders has the power to appoint the Ombudsman, and this does not prevent them being regarded as influential). In Croatia, Georgia, Iceland, Cyprus and Latvia, Government had a low ranking. But, for some other members 'the Government's influence on our work is counterbalanced with the Commissioner influencing their work' (Scotland).

Media is the most influential stakeholder for Belgium. Like NGOs, media can be in a mutual relationship with IHRICs and act as a whistle-blower while raising awareness of children's rights in public (i.e. in Portugal).

Parents are the most influential stakeholder in Portugal, B&H, Iceland, Cyprus and Latvia. Belgium and X have given a high rank to parents as well. Parents' influence is mainly due to their making complaints to the IHRICs.

Religious organisations/ churches have the lowest influence for the majority of members. For secular states like Serbia, their influence is zero. In Luxembourg and Belgium, religious

organisations' influence is equal to that of NGOs. In Finland, their influence is stated more than parents'.

### *Summary*

Overall, the contextual factors that help ENOC members pursue their objectives are their staff, mandate and independence, frameworks and networks, especially NGOs. Northern Ireland was the only institution to report NGOs as an obstacle. Finland was the only office to name a religious institution as its source of assistance. Media was mentioned by most of the Offices as a source of assistance, except for a few of the institutions. Shortages of staff and funds in addition to structural barriers raise difficulties for the institutions. Sometimes, their national legal frameworks do the same, too. Partial power devolutions (like in Wales) and independence of governing bodies such as municipalities from the central government (like in Norway) work as a barrier, too. Although the CRC is their main framework, in reality they need other national, European and international legislation, too. ENOC members' work is mostly influenced by government that mainly handles law and policy. Their other most influential stakeholders are NGOs and parents. Children are the most influential in nearly half of the institutions in Northern Europe.

#### **4.2.2. Mechanism**

In order to find out about how these institutions prioritise their aims, their child participation strategies and collaborations within ENOC, three questions were dedicated to these issues.

#### *Priorities*

Participants were asked to select from the following (taken from ENOC's website as aims of ENOC members, enoc.eu) and put in order of importance (using 1 for the most important, and so on):

To promote full implementation of the CRC	
To influence law, policy and practice	
To promote a higher priority for children and more positive public attitudes	
To encourage government to give proper respect to children's views	
To promote awareness of children's rights among children and adults	
To monitor and promote children's access to advocacy and complaints processes	
To promote the rights of particular groups of disadvantaged children	

After summing up the values given to each aim, the following tables were created. The lowest scores ranked as the highest priorities.

To promote full implementation of the CRC $1 \times 9^7 + 2 \times 5 + 3 \times 3 + 4 \times 1 + 5 \times 2 + 7 \times 1 = 50$	50
To influence law, policy and practice $1 \times 6 + 2 \times 8 + 3 \times 4 + 4 \times 2 + 6 \times 1 = 48$	48
To promote a higher priority for children and more positive public attitudes $2 \times 4 + 3 \times 3 + 4 \times 2 + 5 \times 2 + 6 \times 3 + 7 \times 5 = 88$	88
To encourage government to give proper respect to children's views $1 \times 2 + 2 \times 3 + 3 \times 4 + 4 \times 2 + 5 \times 4 + 6 \times 2 + 7 \times 2 = 74$	74
To promote awareness of children's rights among children and adults $1 \times 4 + 2 \times 2 + 3 \times 5 + 4 \times 5 + 5 \times 2 + 7 \times 1 = 60$	60
To monitor and promote children's access to advocacy and complaints processes $1 \times 2 + 2 \times 4 + 3 \times 1 + 4 \times 2 + 5 \times 3 + 6 \times 7 + 7 \times 2 = 92$	92
To promote the rights of particular groups of disadvantaged children $1 \times 2 + 2 \times 1 + 3 \times 5 + 4 \times 6 + 5 \times 1 + 6 \times 3 + 7 \times 3 = 87$	87

**Table 4.** Calculated values given to each aim

	<b>Priorities (Ranked in order)</b>	<b>Scores</b>	<b>Ranked as the First Priority by IHRICs</b>
1	To Influence Law, Policy and Practice	48	B&H/ Armenia/ Croatia/ X/ Serbia
2	To promote full implementation of the CRC	50	Norway/ NI/ Finland/ Sweden/ Srpska/ Greece/ Cyprus/ Latvia/ Italy
3	To promote awareness of children's rights among children and adults	60	Scotland/ Wales
4	To encourage government to give proper respect to children's views	74	Iceland/ Norway
5	To promote the rights of particular groups of disadvantaged children	87	England/ Iceland
6	To promote a higher priority for children and positive public attitudes	88	-
7	To promote children's access to complaints processes	92	Hungary/ Portugal/ Slovakia/ Georgia

**Table 5.** Ranking of the priorities by respondents

Three main priorities of European IHRICs were to influence law, policy and practice, to promote full implementation of the CRC and to promote awareness of children's rights among children and adults. However, they proved to be problematic as some members like Finland and Belgium

<sup>7</sup> 1x9 means this was ranked as 1 by 9 respondents.

found them similar and overlapping. Some insisted on giving equal rankings to some factors: Greece, Iceland, Wales, Sweden and Norway. For instance, Norway ranked all as 1 except for 6 which was given a 3. And for a group of the respondents, all of the factors had the same values (Luxembourg, Vojvodina, Ireland, Lithuania and Belgium). A typical comment about this came from Ireland:

‘Many of the aims/priorities outlined above are statutory functions of the Ombudsman for Children’s Office, which we have positive obligations to fulfil in accordance with the provisions of the Ombudsman for Children Act, 2002. As such, it might be misleading to rank the above aims/priorities in order of importance; it is also not something that the Office has done to date’.

Influencing law, policy and practice is among the first priorities of ENOC members as ‘even in countries where the CRC is fully implemented in legislation, there is a problem in realization of legislation in practice and the daily work of state bodies and authorities’. (Slovakia) and for Portugal, influencing law, policy and practice is considered as the ‘main function’ of the institution.

The last priority of ENOC members is to promote children's access to advocacy and complaints processes. However, this was the first priority of all associate members of ENOC who deal with individual complaints (Slovak Rep, Georgia, Hungary and Portugal) except for Armenia, in addition to Bosnia and Herzegovina which is a full member. These institutions seem to regard dealing with individual complaints as their main duties and also assets. Dealing with complaints is also a measurable outcome for these institutions.

The reluctance of some ENOC members to rank their priorities suggests that they may have difficulty with their sometimes ill-defined and extensive duties and the expectations of their Offices. This shows that although they have low funding and small offices, they are not able to focus on one or two main aims and they are expected to do 360-degrees monitoring of childhood (Interview with Waage, 2014).

### ***Children’s Participation***

As Hart’s (1992) model of participation is the first and best known one, it was used for understanding the strategies of ENOC members for participating children (and therefore, engaging them in implementing children’s rights). So, the institutions were asked to identify the rung on Roger Hart’s ‘Ladder of Children’s Participation’ that best describes the level of children’s engagement in their organisations:

<b>Child-initiated, shared decisions with adults</b>	<b>4</b>	Norway, N.Ireland, Sweden, Wales
<b>Child-initiated and directed</b>	<b>3</b>	Wales, Serbia, Georgia
<b>Adult-initiated, shared decisions with children</b>	<b>8</b>	X, Luxembourg, Vojvodina, Belgium, Iceland, Serbia, Norway, Wales
<b>Children consulted and informed</b>	<b>15</b>	Croatia, Slovak, Finland, Lithuania, Srpska, B&H, Greece, Cyprus, X, Serbia, Norway, Luxembourg, Belgium, Georgia, Wales
<b>Children assigned but informed</b>	<b>2</b>	Portugal, Luxembourg
<b>Tokenism</b>	<b>0</b>	-
<b>Decoration</b>	<b>1</b>	Latvia
<b>Manipulation</b>	<b>0</b>	-

**Table 6.** Calculated rankings of the level of children’s participation

After counting the marked choices, the following table was made:

	<b>Children’s Participation</b>	
1	Children consulted and informed	15
2	Adult-initiated, shared decisions with children	8
3	Child-initiated, shared decisions with adults	5
4	Child-initiated and directed	3
5	Children assigned but informed	2
6	Decoration	1
7	Tokenism and Manipulation	0

**Table 7.** Children’s participation: overall rankings

Therefore, most of ENOC members consult children and inform them of the progress of the activities. Some of their projects are adult-initiated and a few are started by children.

Armenia and Italy (new institutions) reported no level of child participation. Italy is aiming to ‘get to adult-initiated, shared decisions with children’. Another new member (Latvia) chose decoration level and reported its aim as ‘correcting their weak point in child participation’. The stated level of child participation by offices in newly established democracies was low, too. They also reported low awareness of children’s rights in society as one of their main obstacles. So, from this could be concluded that where there has been a totalitarian background, working for children’s rights becomes more problematic.

X, Serbia, Norway, Luxembourg, Lithuania, Belgium, Georgia and Wales chose more than one level of participation. The way this question was responded to showed different interpretations of child participation which was not surprising as an exact definition of participation does not exist. Some members (Slovak Rep, Belgium-Flanders and Hungary) consider complaints and contacts made to their Offices by children as some forms of children and young people participation. The fact that some IHRICs have reported more than one level of child participation shows they deal with different levels and are not able to engage children highly in all of their activities. On reflection it would have been more precise if the questionnaire had asked the IHRICs to identify their highest level of child participation.

Some members in the UK (England and Scotland) and Ireland use Treseder's (1997) 'Degrees of Participation' instead of Hart's ladder as they find Treseder's '... non-hierarchical, dynamic conception of children's participation and a useful reference point for the flexible approach towards work with children' (Ireland).

### *Networking*

IHRICs' networking in ENOC offers them comparison as a result of exchanging information, empowerment as a result of exchanging information, linking with European bodies and standards, improved credibility and a space for Youth Panel Advisors.

Norway, Finland and Croatia reported comparison as a result of exchanging information and associate members such as Greece and Slovak Rep have been empowered by exchange of information through ENOC. This might reveal that an official network of IHRICs can help IHRICs negotiate for improvements in their mandates and independence. ENOC helps Scotland and Ireland by linking them with European bodies and standards especially the Council of Europe. ENOC also has improved the credibility of Cyprus, Rep of Srpska and Greece. Cyprus has found ENOC as a space for Youth Panel Advisors to be heard and lobby and exchange ideas regarding their rights. ENOC has also helped its new members (Latvia and Italy).

### *Summary*

On the whole, prioritising the aims of IHRICs proved to be problematic, mainly due to their vague and overlapping tasks. Despite all the ambiguities, the mostly mentioned priorities were: influencing law and policy, full implementation of the CRC, and raising awareness of children's rights while ENOC's associate members mainly prioritise handling individual complaints. With regard to children's participation, ENOC members mostly reported that they consult and inform children in their activities. However, there were some reports on different levels of participation for their diverse projects. Higher levels of child participation were mainly reported by institutions in Northern Europe. Another feature of the institutions' mechanism was networking, mainly

through ENOC membership which helps them in information and experience sharing in addition to linking them with European bodies especially Council of Europe.

#### 4.2.3. Outcome

A considerable part of the questionnaire was dedicated to open questions about the impact these institutions try to make, the impact they suppose they have made and their approach towards evaluating the impact of their organisation.

##### *Expected Impact and Significant Actual Impact*

The questionnaire had two open questions about expected and significant impacts of ENOC members. The responses were categorised according to the aims set in the first question (in addition to the literature review about the duties and function of IHRICs).

<b>Example of coding</b>	
<b>Category</b>	Implementation of the CRC
<b>Sub-categories</b>	Promoting Protection and Provision Rights
	Promoting Participation Rights

**Table 8.** Example of coding

As shown in the following tables, the main areas of impact mentioned by the respondents are: law and policy, awareness of child rights and implementing the CRC. These are the main priorities of the IHRICs. As mentioned above, government has the most actual influence on IHRICs' work. It seems as if the institutions aim to change the respective place of children and government in this table by impacting law and policy (their first actual impact) and raising awareness of children's rights.

	<b>Raising Awareness of Child Rights</b>	<b>Influencing Law &amp; Policy</b>	<b>Promoting Participation Rights</b>	<b>Promoting Protection and Provision Rights</b>
<b>Armenia</b>			X	X
<b>Belgium</b>		X		
<b>B&amp;H</b>	X	X		X
<b>Croatia</b>				X
<b>Cyprus</b>	X	X	X	X
<b>England</b>	X		X	X
<b>Finland</b>	X	X	X	
<b>Georgia</b>	X	X	X	X
<b>Greece</b>		X		
<b>Hungary</b>		X		
<b>Iceland</b>	X			
<b>Ireland</b>		X		X
<b>Italy</b>		X		X
<b>Latvia</b>				
<b>Lithuania</b>	X			X
<b>Luxembourg</b>	X		X	X
<b>N. Ireland</b>	X		X	
<b>Norway</b>	X	X		
<b>Portugal</b>	X	X		X
<b>Srpska</b>	X		X	
<b>Scotland</b>	X		X	X
<b>Serbia</b>	X		X	
<b>Slovak Rep</b>		X		X
<b>Sweden</b>				X
<b>Vojvodina</b>				X
<b>Wales</b>				X
<b>X</b>				X
<b>Y</b>				X
<b>Total</b>	14	12	10	17

**Table 9.** Expected impact of ENOC members

The answers to the question about the most significant impact of the institutions were categorised by themes; first according to the aims (Table 10), second according to groups or settings (Table 11).

	<b>Raising Awareness of Child Rights</b>	<b>Influencing Law &amp; Policy</b>	<b>Promoting Participation Rights</b>	<b>Promoting Protection and Provision Rights</b>
<b>Armenia</b>	X	X		
<b>Belgium</b>	X	X		
<b>B&amp;H</b>	X	X	X	
<b>Croatia</b>	X			
<b>Cyprus</b>	X	X		X
<b>England</b>	X	X		X
<b>Finland</b>	X		X	
<b>Georgia</b>		X	X	
<b>Greece</b>	X	X		X
<b>Hungary</b>		X		
<b>Iceland</b>				X
<b>Ireland</b>		X		X
<b>Italy</b>				
<b>Latvia</b>	X	X		
<b>Lithuania</b>		X		X
<b>Luxembourg</b>		X		
<b>N.Ireland</b>	X			
<b>Norway</b>		X		
<b>Portugal</b>		X		X
<b>Srpska</b>	X			X
<b>Scotland</b>	X			X
<b>Serbia</b>		X		
<b>Slovak Rep</b>	X	X		
<b>Sweden</b>		X		
<b>Vojvodina</b>				X
<b>Wales</b>				
<b>X</b>				
<b>Y</b>				
<b>Total</b>	13	17	3	10

**Table 10.** The most significant actual impacts on children, grouped by ENOC aims

According to Table 11, ENOC members have mainly impacted schools and child welfare services, youth justice and care systems. Some of the respondents mentioned tackling child abuse (especially corporal punishment) and child poverty as their most significant impacts.

	<b>Youth Justice System</b>	<b>Care System</b>	<b>School</b>	<b>Child Welfare</b>
<b>Armenia</b>				
<b>Belgium</b>	X			X
<b>B&amp;H</b>				
<b>Croatia</b>				
<b>Cyprus</b>				
<b>England</b>	X		X	X
<b>Finland</b>			X	
<b>Georgia</b>		X		
<b>Greece</b>			X	X
<b>Hungary</b>				
<b>Iceland</b>				
<b>Ireland</b>	X		X	X
<b>Italy</b>				
<b>Latvia</b>	X	X	X	
<b>Lithuania</b>				
<b>Luxembourg</b>	X		X	
<b>N.Ireland</b>				
<b>Norway</b>				
<b>Portugal</b>		X	X	X
<b>Srpska</b>				
<b>Scotland</b>		X		
<b>Serbia</b>				
<b>Slovak Rep</b>				
<b>Sweden</b>				
<b>Vojvodina</b>				X
<b>Wales</b>				
<b>X</b>				
<b>Y</b>				
<b>Total</b>	5	4	7	6

**Table 11.** The most significant impacts on children, grouped by children and settings

New members, such as Italy reported it was too early for them to know the answer to this question. But Latvia and Armenia pointed to the differences they had made in law and policy, e.g. to provide free education for all children (Latvia) and for young people leaving care (Armenia).

Some replies were imprecise. For example, Iceland said: “There has been great development on children’s rights since the Office of the Ombudsman for Children was established in 1995.” Wales simply replied: “Too numerous to mention!”

Some mentioned one significant impact: Norway pointed to a “clear ban against physical and mental abuse of children”, while Northern Ireland responded: “Making children visible and having their voices heard, especially when it comes to services like speech and language therapy.”

The remaining respondents mentioned more than one impact. Among them, England, Ireland and Portugal listed very detailed examples of their impact. For instance, Portugal mentioned children in institutional care, inclusion of non-EU students in education, Special education allowance, legislative work on monitoring activity of self-employed nannies and safety requirements of playgrounds.

Comparison of the responses to priorities and the responses to significant and expected impact is interesting. Either it can simply show the individual who filled in the questionnaire did it carelessly or had difficulty in communicating in English; or it can also show that the strategies of the offices are not chosen carefully or they do not pay attention or do not have enough time and staff to consider their outputs to be in the same path as their aims. Sometimes, due to their contexts and mechanisms, outcomes become different from the way they were planned or their priorities are in one area, but they find it easier to have impact in another.

### ***Impact on Particular Group of Children***

This was an open question and the responses were categorised as above. The table shows that respondents' focus is mostly on children in care systems and, then children with disability, Minorities, in conflict with law, abused and then deprived children.

Belgium (Flanders) and Y reported that their organisations were not targeting any particular groups of children; Belgium-Flanders explained: 'we focus on all children; ...if policy is child-friendly for all children; it is also good for the most disadvantaged in our society...' and Y made no further comments.

	Disabled and SEN	Living in Poverty	In Conflict with Law	In Care System	Abused/ Domestic Violence	Minority	Refugee/ undocumented
Armenia	X	X		X			X
Belgium							
B&H	X			X		X	
Croatia	X	X	X		X	X	
Cyprus	X			X			X
England	X	X	X			X	X
Finland	X			X		X	
Georgia	X	X		X	X	X	
Greece	X		X	X	X	X	X
Hungary	X			X		X	
Iceland						X	
Ireland		X	X				
Italy		X	X		X		X
Latvia	X		X	X			
Lithuania							
Luxembourg				X	X		
N.Ireland			X	X			
Norway				X	X		X
Portugal							
Srpska				X			
Scotland	X	X			X		
Serbia	X					X	
Slovak Rep				X			
Sweden			X	X	X		
Vojvodina	X	X				X	
Wales	X		X	X		X	
X				X	X		X
Y							
<b>Total</b>	14	8	9	16	9	11	7

**Table 12.** Expected impact on particular groups of children

Sweden added that their focus changes every year: ‘This year's work focuses on children who experience domestic violence. Last year we worked with children and young people living in care homes or foster homes’. Miscellaneous responses included children with divorcing, single or imprisoned parents, LGBT children, children with mental health issues and rural children

### *Evaluation of Impact*

Fourteen IHRICs reported that they had not undergone any evaluation. These were X, Armenia, Italy, Latvia, Y, Greece, Cyprus, Vojvodina, Luxembourg, Ireland, B&H, Finland, Slovak, Srpska and Iceland. So, half of the participants have not undergone an evaluation or what has been done

has not been evaluation. It is obvious that newly established offices had not had the time to make an impact and evaluate it. Among older institutions shortage of funds and staff were the reasons given for not having undergone any evaluation. This suggests that such shortages remove opportunities for reflection and evaluation from IHRICs and so reduce their ability to plan well for the future.

A few of the remaining respondents who have undergone evaluation have been evaluated through internal evaluation using monitoring frameworks, annual reports, performance framework and desk-based research, while external evaluations were performed by national bodies for children and external surveys. They are shown in table 16. Evaluation has helped IHRICs in raising children’s awareness and participation (Scotland), drafting action plans (Georgia), achieving legislative change (England), identifying gaps in the profile of the office (NI) and promoting dialogue with parliament (Belgium).

Internal Evaluation	External Evaluation
Belgium	Croatia
Georgia	England
Hungary	Northern Ireland
Lithuania	Norway
Serbia	Portugal
Sweden	Scotland
-	Wales

**Table 13.** Institutions undergone internal or external evaluation

Main issues of evaluation faced by IHRICs were:

- It is difficult to isolate our impact from larger network: Finland
- Measuring the impact of IHRICs is a challenge and UN acknowledges it: England
- The evaluations done do not provide us with the needed levels of details: Scotland

Criteria and indicators used in evaluating IHRICs were: implementation of the CRC, number of individual complaints, number of amended legislations, relationship with key stakeholders and being consulted by policy makers, legislators and judges. England uses a performance framework with a combination of these criteria, which is mainly ‘derived from the UN’s ‘Assessing the Effectiveness of National Human Rights Institutions’ report and the Department for Education’s business plan model.’ The framework has four themes of statutory inquiries, advice and influence, outreach and engagement; and organisational efficiency.

Those IHRICs that work with individual cases had relied considerably on this feature. Although this is an important task, most cases have individual impacts. But because case work has concrete results and can be measured quantitatively and offices can isolate their impact on them, those

IHRICs that deal with individual complaints had mentioned them as their achievements and also as suggested criteria for evaluation.

Respondents said they would use these criteria in evaluating their Offices: designed with collaboration of all stakeholders, extent of positive public attitudes towards the institution, extent of adoption of certain suggestions of the institution, willingness of children and adults to consult with the Commissioner and children's satisfaction concerning the IHRICs' role and achievements. ENOC members' definitions of indicators differ to a great extent. However, they have attempted to measure their impact on fulfilment of children's rights in their own contexts, as there has been no set of well designed indicators.

### *Summary*

It could be concluded that, just as we saw with ENOC members' priorities, their conceptualisation of impact is not straightforward. Both their intended and actual impact could be roughly categorised in terms of full implementation of the CRC, influencing law and policy, and raising awareness of children's rights. According to the response to the survey, schools and children's services, youth justice and care system have been mainly impacted by IHRICs, and most of the institutions reported targeting particular groups of children in their activities. I found the intended impacts of the institutions related to their priorities while their actual impacts seemed different from their priorities. Differences of actual and intended impacts are significant in 60-70% of the institutions. This might be due to the differences of the contexts and will need detailed information about the context and mechanisms of ENOC members. But the difference might also be due to the kind of impact for instance, raised awareness of children's rights is reported highly as actual impact of IHRICs while it has been widely done by other actors as well. Unlike raised awareness, promoted child participation has not been reported as an actual impact of ENOC members even by those in Northern Europe that reported high levels of child participation in their activities. This could be due to the problematic nature of child participation.

IHRICs and ICRI are not very familiar with evaluation, especially impact evaluation. Half of the institutions have not undergone any evaluation and only seven have undergone an external evaluation: this may be attributed to shortages of time and budget, or lack of understanding of the benefits of impact evaluation. IHRICs mostly evaluate their performance and not their impact and it is difficult for them to isolate their impact from larger networks. When asked, IHRICs suggested some good criteria for evaluation. This shows they are aware of the questions an evaluation should answer but, they do not have the chance to apply the criteria in practice. Measuring the impact of IHRICs is a challenge for them while they need evaluations to set up their strategic plans. Among the few European IHRICs that have undergone evaluation, they have not been provided with the needed levels of detail. IHRICs have attempted to measure their impact on fulfilment of child

rights in their own contexts as there has been no set of well designed indicators. This survey illustrates the need for systematic impact evaluation of these institutions.

### **4.3. Reflections on the Findings**

This survey intended to study IHRICs' conceptualisation of impact to help in realizing what should be evaluated as their impact. It was also used as a means of communication with European IHRICs to identify those that might be interested in participating in a case study. Most of the institutions replied with passion to introduce their Office or learn more about improving their impact, and patience with the process of completing the questionnaire, although a few responded in a more perfunctory way, perhaps because they saw little value in the research or were simply too busy. All responses were of course, included in the analysis.

Finding patterns across data has not been an easy task. Prior to receiving all the completed questionnaires, I was looking forward to finding the older institutions confident in set priorities and aware and clear about their impact. I was also expecting those IHRICs in long term established democracies to engage children and young people with higher levels of participation. The actual data did not turn out to be as straightforward as these and with hindsight I feel the survey was not a great bit of research.

Due to the diverse replies of the respondents, the first patterns to emerge from the data concerned IHRICs' priorities, stakeholders' influence and impacts through the help of numbers and quantitative results.

Even now and after three years of dealing with this data, I should confess that finding patterns has not been easy. That is what made me consider what this 'lack' of order might mean. First of all, it means that 67% of European IHRICs who are members of ENOC have responded diversely to ten simple questions. This might show the influence of their contexts. These might include personalities, language, historical background, degrees of vulnerability due to economic recession, funding, awareness of children's rights and appreciation of children's voices and participation in their context.

But again, the fact that in many cases North Europe institutions or Nordic ones have given the same responses as former Eastern Bloc institutions might refer me to the common issues of ENOC members: they have had the Norway Office as a model (UNICEF 2013, p.233), their main framework is the CRC and the UNCCRC has determined their general duties.

Maybe if the questionnaire were translated to the languages of ENOC members, some misunderstandings would have been reduced but this was not a practical choice. Also, the problem of overlaps between the priorities created some problems. As mentioned previously, they were

taken from ENOC's website and I did not construct them. On reflection, I believe it might have been better if I had made some more distinct categories so that the responses would have been less affected by the overlaps. It might also be the case that shortages of funding and smallness of the Office make Offices more reactive rather than proactive, making it harder for them to talk about their long-term strategies and outcomes.

Personalities have played an important role in this survey; firstly, most IHRICs become Ombud-led and the background and character of the Head, Commissioner or Ombudsman affects the strategies and decisions of the Office to a great extent (UNICEF, 2013). Secondly, for this survey, one (or in a few cases, two) individual(s) responded to questions on strategies and outcomes and obstacles of an institution. The fact that Heads of Departments, Commissioners or Ombudsmen's responses often make more sense may be due to their knowledge of the history and long-term activities of the Offices, while a junior staff member might have been only recently recruited and not familiar with the issues discussed in the questionnaire. This is not necessarily about length of service, so much as breadth of strategic overview and confidence.

#### **4.4. Case Study Selection**

Analysing the data collected through the survey with European IHRICs highlighted the areas of impact that should be focused on; the stakeholders that should be engaged and indicator groups that should be designed during the evaluation of case study. The findings imply that one of the highest ranked impact for the respondents is enduring change in law and policy. The IHRICs' stakeholders that should be involved in their impact evaluation are children, NGOs and representatives of Government.

Institutions that were willing to participate in the second phase of the study were identified during the survey; 12 Members were definitely interested in taking part in the second phase: B&H/ Ireland/ Georgia/ Armenia/ Finland/ Vojvodina/ Northern Ireland/ Luxembourg and X. Portugal, Iceland, Cyprus and Belgium (Flanders) were not interested, mainly due to lack of time and resources or disappointments from the usefulness of previous research projects on IHRICs. Other members said they needed more information on the second phase of study.

With regards to selecting the case study institutions from the interested IHRICs, the way they responded to the questionnaire, language and location were among the criteria. Also, I had the chance to make observation and face-to-face contact with ENOC members at the annual conference of ENOC, Cyprus 2012. The ones that approached me and showed more interest were Finland and NI. Both Finland and NI are North European countries and were established in 2000s and their Commissioner/ Ombudsman had a political background. There were, however, differences in their funding, number of staff, mandate, issues of conflict and poverty in Northern Ireland, welfare state and municipalities in Finland. So, these two offices were selected (See more on case selection rationale in the methodology chapter).

Based on the findings from the survey and consultations with experts, I proposed that the main focus should be on the contexts, mechanisms and outcomes of the institutions in influencing law and policy, and how this is informed by children's perspectives, in an attempt to develop tools and indicators for impact evaluation of IHRICs.

## **CHAPTER 5: INTRODUCTION TO THE CASE STUDY INSTITUTIONS**

### **5.1. Introduction**

As the start of the comparison case study, and in an attempt to study the Contexts, mechanisms and outcomes of the selected institutions, contextual factors affecting the function of Lapsiasia and NICCY will be discussed here. This chapter addresses a short introduction to the context and background of Lapsiasia and then continues to do the same for NICCY

### **5.2. Ombudsman for Children in Finland (LAPSIASIA)**

#### **5.2.1. Introduction to Context**

Finland is a parliamentary republic with a central government based in Helsinki and local governments in 342 municipalities. At the end of 2011, its population was approximately 5,500,000 of which 20% were children (nearly 1,100,000) (MLL, 2012). Finland has defended its independence from different states throughout history; especially Sweden during last 500 years. In 1917, Finland declared independence from the former Soviet Union (Sundblad, 2014; Wiki, n.d.a) and got involved in a war with Germany during World War II.

In 1919, alcohol was prohibited in Finland which led to a dramatic increase in alcohol consumption 1919-1932 (Latva, 2003). Post-war depression and drug addiction exacerbated the 'Finnish tendency to drinking' considerably (Latva, 2003). These were worsened by inherent introversion of the people and their alienation, due to Finland's rapid post-war economic growth and urbanisation. A combination of all these factors with seasonal affective disorder which results from lack of sunlight, tripled the suicide rate among the Finnish. By the early 1990s, Finland became the suicide capital and a world leader in teenage suicide. Compared to that situation, and after the attempts in dealing with the problem, the 2000s and 2010s have seen reductions in the Finnish suicide rate (Khaleej Times, 2007).

Civic organizations have a strong standing in Finland. The Finnish government has pledged to support the NGOs and the persevering development of civic society policies. Civic organizations promote citizens' participation and everyday wellbeing, both through voluntary work and in cooperation with municipalities. Four out of five Finns are members of an organization. There are 127,000 registered associations in Finland and approximately 200 nationwide organizations in the social and health care sector, with thousands of local associations under them. Some 250,000 people are estimated to participate annually in voluntary work for organizations within the social and health care sector alone (Ibid).

### **5.2.2. Children's Rights in Finland**

By international comparisons, Finland has done well in the area of child wellbeing (UNICEF, 2011). Finland is in fourth place in the world list of overall child wellbeing. In this list, overall child wellbeing is measured and compared under six different headings or dimensions: material wellbeing, health and safety, education, peer and family relationships, behaviours and risks, and YP's own subjective sense of wellbeing. It draws upon 40 separate indicators relevant to children's lives and children's rights and is guided by the CRC.

Two Finnish pioneer NGOs for children were founded in the early 20<sup>th</sup> Century. In the 1920s, Save the Children Finland was established in order to provide help in foster homes for child victims of the First World War (Save the Children, n.d.). The Mannerheim League for Child Welfare (MLL) which is a Finnish civic organisation has worked towards the implementation of children's rights in Finland since 1920. In the early 20<sup>th</sup> century, the League's activities centred on developing primary health care for children. Today, the League's operations centre on civic activities, influencing society and organizing various kinds of peer support for families with children. MLL is the largest child welfare organization in Finland and its nationwide central organization includes 10 district organizations and 566 local associations. More than half of the financing of this nationwide central organization is composed of the contributions of Finland's Slot Machine Association which supports non-profit social and health care work. Other financing derives from grants allocated by municipalities, the organization's own fund-raising and donations (MLL, 2012).

Prior to the early decades of the 20<sup>th</sup> Century, Finland did not have a comprehensive child welfare law. Influenced by reforms to improve the lives of those in poverty, laws in the early decades were passed with the aim to improve the position of orphans and illegitimate children (Forssen et al., 2003). Following Finland's political independence from Russia in 1917, a Committee was appointed to develop child welfare policy (Hamalainen and Vornanen, 2005). After World War II, a shift in welfare policy from rescuing the poor to the rights of citizens occurred alongside shaping the welfare state in Finland. At that time, family policies were developed that focused on the maternity and parenthood allowances and provision of nurseries (Forssen et al., 2003).

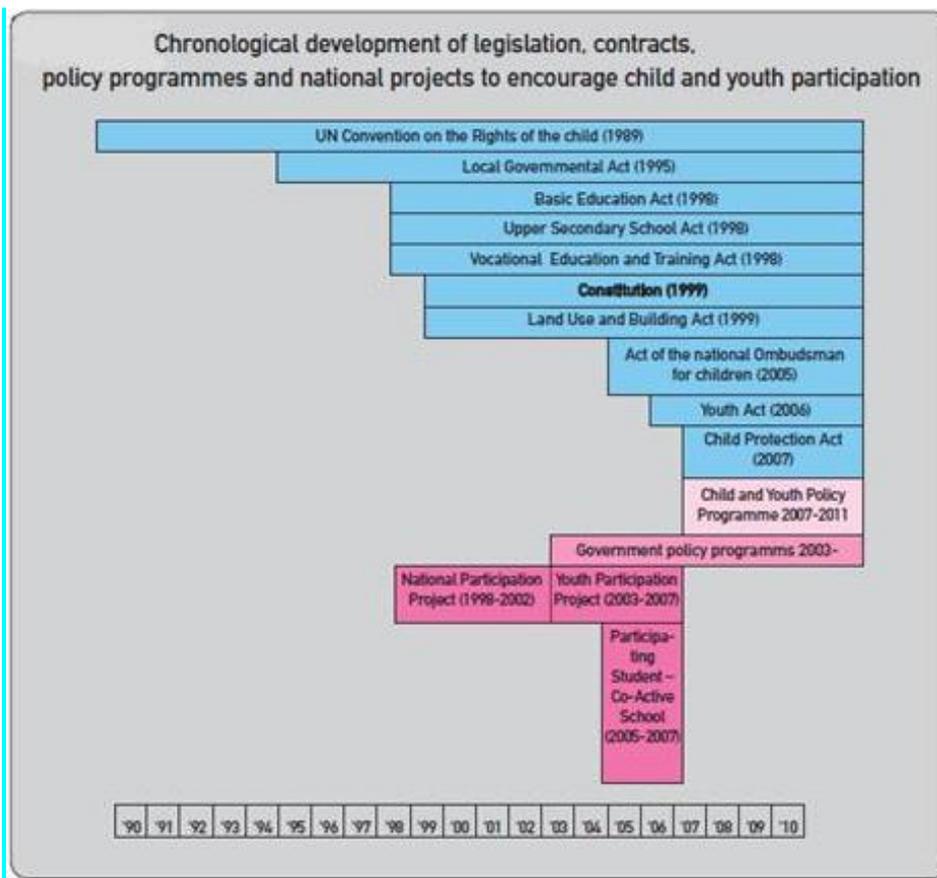
According to Hamalainen and Vornanen (2006), prior to 1960-70s, child welfare policy was paternal and bureaucratic but, as a matter of implementation of the Nordic model of welfare, it improved considerably. In the 1980s, children were increasingly considered as self-determined rights bearers due to the impacts of the new paradigm of childhood (e.g. Alanen, 1988) in addition to forces of international contracts and declarations regarding children's rights. This led to the draft of the Child Welfare Act in 1984 (Hamalainen and Vornanen, 2005).

Hearn et al. report that in Finland there has been a strong tendency to frame social problems associated with children as family problems, with interventions to support the parents, or the

family as a whole, rather than the child alone (2004). Although this tendency is slowly fading, the ways of working for and with children still vary greatly across the country (Sinko, 2008). And municipalities and local actors have played a great role in the planning and implementation of local child welfare policy (Hamalaainen and Vornanen, 2005).

Sinko (2008) describes the Child Welfare Act 1984 as a 'skeleton law' which gave no exact intervention instructions to authorities. In 2008 and as part of the Ministry of Social Affairs and Health development Programme for child welfare, the Act was reformed. The new Act 2008 was amended in 2010 to clarify and define child welfare preventions, the concept of the best interest of the child and how to assess it. The Act has simplified the issuing of child welfare notifications (The Central Union for Child Welfare, 2010). Sinko believes that 'the core values of the Act are in accordance with the UNCRC' and it emphasises that child protection professionals should listen to children and asks municipalities to cooperate in preventive and protective processes with regards to children's welfare (2008).

Finnish legislation supports children's participation in municipalities and at schools. In addition, according to the Finnish Constitution, children must be treated equally as individuals and be allowed to influence matters that concern them, according to their maturity. The Constitution does not limit participation to a certain age for children. It obliges decision-makers and professionals to apply means of participation accordingly by the means of improved information on children's own ways of thinking and acting. Figure 4 illustrates a chronological study of the development of law and policies regarding child participation and analysis of existing structures for participation (Council of Europe, 2011).



**Figure 4.** Child and youth participation in Finland (A Council of Europe policy review, 2011)

The Council of Europe’s analysis of existing participation structures (2011) shows that in general, children and young people participation in Finland is carried out in very ‘formal’ structures that are mainly of the direct and representative type. It includes youth councils, children’s Parliaments and school Councils. Moreover, the approach to children and young people participation is very much ‘top down’ instead of ‘bottom up’ - i.e., activities are pre-planned and the methods are selective and not open to all children and young people. Also, there is no culture of the direct involvement of children in the planning process. The strong Municipal autonomy also results in very few opportunities to share best practices in child participation as the municipality cannot function as a real platform for implementation since it works in isolation and its work is dependent on human and financial resources.

Finland ratified the CRC in 1991 just as the country was on the threshold of an economic depression (Satka and Harrikari, 2008) and basic social services for families with children were cut in all areas of social welfare. Although Finland is still a welfare state and among the richest countries in the world, the relative number of children living under the poverty line increased considerably between 1990 and 2004 (Sinko, 2008). Despite the positive economic growth since 1995, different governments have not been able to restore the level of financial benefits or services to families and children back to the level before the recession (The Finnish NGO Delegation, 2011).

In 2008, the UNCCRC was concerned that training on the Convention for professionals working with and for children remained insufficient. Also, they were concerned at the high suicide rate among adolescents and lack of progress in increasing the educational resources for Roma children (The Central Union for Child Welfare, 2005).

Again, in 2009, Finland faced another economic depression. By that time, 13.9% of Finnish children, that is 150,000 children, were living in poverty. Since the previous recession in Finland in the early 1990's, the poverty rate of families with children tripled between 1990 and 2009. The economic depression led many municipalities to plan making cuts in preventive services. Therefore, some municipalities still lack qualified social workers, and in particular social workers with expertise in child welfare. Consequently, it is difficult to intervene early in the problems of children and families with children (The Central Union for Child Welfare, 2005). As a result of rapid socio-economic changes, the country faces challenges concerning children experiencing isolation, loosening family ties, problems caused by parental alcohol misuse, divorce disputes, mental illness and severe differences in the quality of services between the various municipalities (Lapsiasia, 2009).

Issues of concern from NGOs' point of view in 2010 were: insufficient monitoring of children's services, the best interest of the child not being sufficiently implemented and complications of the lives of children caused by adults' heavy substance abuse (The Central Union for Child Welfare, 2010). Recommendations of the Ombudsman for Children to Government in 2011 were: granting added resources to Lapsiasia, amending the Act on the Ombudsman for Children so that the Ombudsman would report to Parliament, and exploring the potential of bringing the institution administratively in connection to the Parliament together with other human rights supervision authorities (Lapsiasia, 2011b).

In 2010 and 2011, some positive facts regarding promotion of child rights were reported by NGOs to the UNCRRC that had happened since 2005: The launch of a coordinated policy programme on children and young people and families and child-friendly policies in the State administration, and the new Child Welfare Act 2008 deriving from and supported by the UNCRRC. As a result of joint work from the Ombudsman with NGOs and the Church, a governmental working group agreed on a National Communications Strategy on children's rights especially on raising the general public's awareness of children's rights (Ibid).

In 2010, a special order on incorporating the CRC together with the Declaration and Convention on human rights into the school curricula was introduced. Also NGOs reported to the Committee that the Finnish Children's Ombudsman's work has been well received by the State administration and relevant organisations. NGOs described the children's Ombudsman is an active, cooperative and skilful body whose initiatives and opinions are taken into account by legislative bodies and

in development projects as well as by the media (The Finnish NGO Delegation, 2011; The Central Union for Child Welfare, 2010).

In 2011, as areas of concern, the UNCCRC mentioned lack of a comprehensive coordination mechanism that would be responsible for overall implementation of the CRC between all the relevant bodies and institutions at national, regional, and municipal levels. In addition, the Committee also expressed its concern about, for example, the long duration of custodial disputes concerning children, increase in the number of children placed in institutions and insufficient number of foster family care placements for children, the high rate of depression and the number of suicides, and inadequate access to mental health services for children (Ministry of Foreign Affairs of Finland, 2011).

UNCCRC concerns (2011) included access to health care services for Roma and Sami children in their own languages; widespread sexual and gender-based harassment and bullying against girls; as well as sexual abuse and harassment of children in the digital media, especially the Internet. The committee also urged Finland to raise awareness among the general public, especially children, about the different complaint procedures within national mechanisms. Furthermore, the Committee recommended providing sufficient resources for municipalities to ensure the implementation of the rights of the children, raising awareness and training about the CRC, and integration of the best interests of the child in all legislative proceedings (Ministry of Foreign Affairs of Finland, 2011).

In its review of children and young people participation in Finland (2011), the Council of Europe pointed out that Finland has many strengths regarding listening to children and young people and taking their views seriously, in particular in formal representational structures. However, improvements could be made by developing new innovative child participation methods, providing training, ensuring child-friendly information and involving disadvantaged children and young people. The Council noted that Finnish authorities produce very little information specifically designed for and aimed at children, concerning public services and the activities of the authorities.

Moreover, no consideration was given in the selecting processes of formal children and young people participation structures to the involvement of disadvantaged children, including migrant children, disabled children, asylum-seeking children or other disadvantaged groups. The Council criticized taking it for granted that all children have equal chances to participate via the school system, as there is no evidence that they are equally represented in existing participation structures, or are involved in surveys and hearings or other forms of participation (Ibid). The review suggested that Human and financial resources are needed to ensure that these children have equal opportunities to participate. In particular, youth participation needs to be more clearly defined in the Youth Act and should include an obligation for municipalities to adopt a local youth

strategy or action plan, including measures for participation in schools, health care and other settings (Ibid).

### **5.2.3. Establishment of Lapsiasia**

Before the establishment of Lapsiasia, the work of the Ombudsman was initiated by Mannerheim League for Child Welfare (MLL) in 1981 which dealt with individual complaints from children. In addition to that, a Municipal children's Ombudsman has been operating in the municipality of the city of Tampere since 2003. As stated by a member of the staff, in the 1990s many academics, lawyers, NGOs and professionals lobbied for the establishment of Lapsiasia. In that time, Finland was the only Scandinavian country without an ombudsman for children:

*It was very hard for authorities to be persuaded to listen to children. Some people underestimated children's competence. There was also this belief in the society that everything was good for children in Finland and there was no need to listen to children (A member of Lapsiasia staff).*

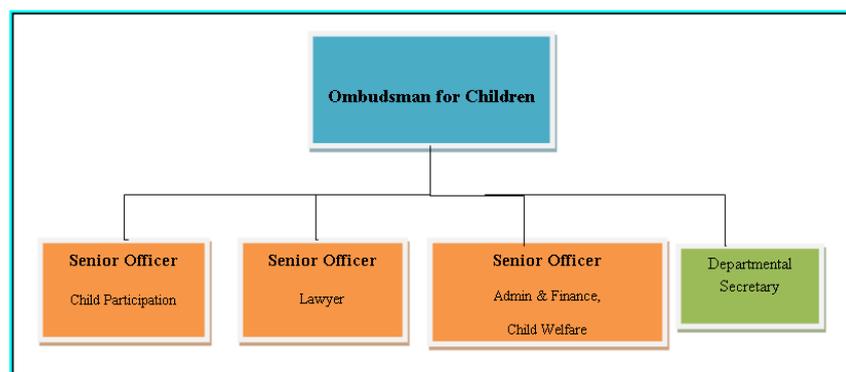
According to Lapsiasia's website, in 2002 the government presented a report to Parliament on the welfare of children and young people and the Parliament called for the creation of the post of Ombudsman for Children. The Ministry of Social Affairs and Health set up an interim Committee on the CRC, which submitted a proposal on the mandate of an Ombudsman for Children in 2004. The Ministry prepared a draft proposal to Parliament for a law on the creation of the post of Ombudsman that would be a national and state official, independent of government, who would have a remit to influence at the general, social, development, policy and legislative levels. The Act of Parliament on the Ombudsman for Children was passed on 21<sup>st</sup> April 2005.

Finland's first Ombudsman for Children, Maria Kaisa Aula, studied Political Sciences. Earlier, she was a Member of Parliament and an advisor to the Prime Minister. Since 2004 she chaired the Central Union for Child Welfare in Finland. Her term as Ombudsman began on 1<sup>st</sup> September 2005. She was re-appointed in 2010 and her second term of office was due to end in 2015. In early January 2014, she resigned stating that the '*work has been stressful because the number of staff has been underestimated with respect to the duty of a national authority and the demands of citizens and partners*'. The number of staff (5) is also low in comparison with other special Ombudsmen in Finland, or Ombudsmen for Children in other countries. In Sweden (25) and Norway (14), for example, the numbers of personnel in charge of similar duties at Lapsiasia are substantially greater. The new Ombudsman started work in May 2014. Tuomas Kurttila holds a Master's Degree in Administrative Sciences and Theology and has worked as the Executive Director of the Finnish Parents' League. He was selected from among 43 applicants. The appointment was confirmed by Susanna Huovinen, the Minister of Social Affairs and Health.

Data collection was carried out during the last two years of the former Ombudsman's office and was completed before the start of the work of the new one. Hereafter, the former Ombudsman will be referred to as the Ombudsman.

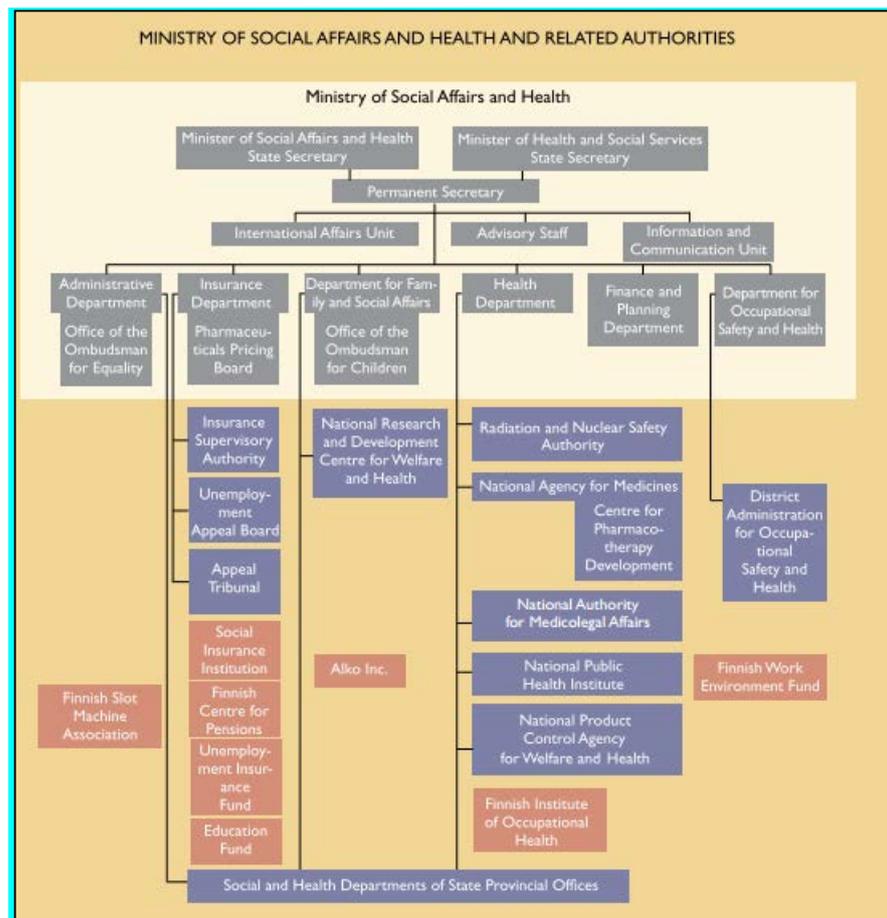
#### 5.2.4. Organisation of the Office

Since 2007, five people have worked permanently in Lapsiasia: the Ombudsman for Children, a lawyer, two senior officers and the department secretary (see Figure 5). According to the Ombudsman, the budget of the Office was approximately €20,000 in 2011, saw a slight increase in 2012 and 13 and was planned to be €60,000 in 2014.



**Figure 5.** Organisational Structure of Lapsiasia

Lapsiasia is located in Jyväskylä and operates administratively in connection with the Ministry of Social Affairs and Health (see Figure 6). At present, none of the Finnish special Ombudsmen are administratively connected to Parliament. Lapsiasia has called for reconsideration of this arrangement and has argued that closer cooperation of various Ombudsmen with the Parliamentary Ombudsmen and being accountable to them instead of Government would strengthen the human rights perspective in Finland (Ministry of Education, n.d.). In early 2014 it was decided that from 2015 Lapsiasia, together with the Ombudsmen of Equality and Minorities, would have umbrella administration within the Ministry of Justice.



**Figure 6.** Organisational Structure of the Ministry of Social Affairs and Health (Ministry's Website, n.d.)

The Ombudsman does not seem to be concerned at being part of the Ministry:

*'We only have administrative connections...They give us resources..., but do not intervene in our work. Sometimes, it would be better if they were more interested in our work. Here, there are two options: either Ombudsmen have umbrella administration with Ministries or become part of Parliament. We'd better be a part of the Parliament...For long term I would prefer to be a part of Parliament'.*

However, one member of staff reported that some activities of the Office involved monitoring the work of the Ministry, which led to some difficulties over funding, and a stakeholder in a Municipality believed that the Ministry should appreciate Lapsiasia's work more.

Staff in the Ministry seemed to be troubled by the Office:

*'Sometimes the Office wants to get more credit only to themselves and make some short cuts. We expect a little openness from them on their forthcoming plans and how they intend to execute those plans'.*

Lapsiasia has evidently been too small for accomplishing its tasks. With resources so limited, they have been allocated to general influencing work, strengthening the voice of children, and disseminating information on children's human rights. Alongside other duties, including preparation of new initiatives, participation in working groups and co-operation networks, and responding to requests for statements, the workload of Lapsiasia is unreasonably high. This issue should be a matter of concern as the levels of resources and staff affect the work, and the independence, of the Office. Being part of a ministry could also pose independence issues for the institution.

With regard to evaluating, and mainly due to the limited resources of the Office, Lapsiasia has not undergone any evaluation except for a small internal survey: *'Once in 2010, while celebrating the fifth anniversary of the Ombudsman's office in Finland, we asked our stakeholders about our work. The evaluations were very positive and our partners found that through the work, the rights of the child were brought to the national agenda and... our work has also amplified the voices of children in the society.'* (a member of Lapsiasia staff)

#### **5.2.5. Duties and Powers**

The following duties are defined by the Act which established the Ombudsman for Children:

- 1) Monitor the welfare of children and youth and the implementation of their rights;
- 2) Influence decision-makers from the viewpoint of children;
- 3) Maintain contacts with children and youth and convey information received from them to decision-makers;
- 4) Convey information concerning children to professionals working with children, decision makers and the public;
- 5) Develop cooperation between actors concerned with child policy;
- 6) Promote the UN Convention on the Rights of the Child (MLL, 2012).

Despite the above, a child rights expert believed that in reality, Lapsiasia has no powers other than questioning and reporting on children's situation. The Parliament expects the Ombudsman to be an intermediary between children and decision makers. The Ombudsman for Children should report annually to the government on the activities of Lapsiasia, the implementation of children's rights, the development of child welfare and shortcomings in legislation.

#### **5.2.6. Advisory Boards**

The Government appoints an adults' Advisory Board for Lapsiasia for a maximum period of five years. The Advisory Board is composed of a chairperson, vice chairperson and a maximum of 14

other members who are representatives of various administrative sectors, the regional and local levels, non-governmental organizations and other bodies. The tasks of the Advisory Board include:

- to make proposals and issue statements in the situation of children and the promotion of children's rights
- promoting cooperation between different national and international actors on matters concerning the situation of children and children's rights
- following up and assessing national and international developments in matters concerning children
- acting to strengthen the position of children in society and exerting an influence to develop positive attitudes to children and promoting the availability of information on the situation of children and their rights (Lapsiasia, n.d.d)

All the tasks above seem to be rather more than 'advisory'.

Since 2010, and inspired by the UK Commissioners' Youth Panels, Lapsiasia has started recruiting young people as members of a young people's advisory group (Young people advisor).

### **5.3. Northern Ireland Commissioner for Children and Young People (NICCY)**

#### **5.3.1. Introduction to Context**

Due to its historical background, it is essential to take ideology and identity seriously in Northern Ireland (Cash, 1996). Failure to take these features into account is likely to lead to significant misunderstandings of both the on-going process of change and the inevitable conflicts encountered (UK Children's Commissioners, 2008). When the island of Ireland was partitioned in 1921, a substantial population in the north (mostly Protestant descendants of English and Scottish settlers from the 1600s onward) wished to retain the union with Britain. But, a significant Catholic minority there preferred to be citizens of a unified Ireland (Darby, 2003).

According to Smith (1999), there have always been competing arguments about the underlying roots and nature of the conflict in NI. The different political aspirations of Nationalists and Unionists are undoubtedly central to the conflict, but these map closely with the labels of Catholic and Protestant, which are often used to suggest that it is a religious dispute. Others have interpreted the Catholic and Protestant labels as indicative of two groups which differ in terms of culture and traditions. Smith argues that social differentiation, areas of deprivation and differentials in employment opportunity add an economic dimension. Therefore, the conflict in NI is a complex mixture of such interrelated issues (1999).

As described by Fitzduff and O'Hagan (2009), the existence of tensions and discrimination eventually provided the main focus for the civil rights campaigns of the late

1960s, which drew massive support from Catholics in NI and were inspired by a worldwide non-violent movement for civil rights to secure rights to votes, jobs and services. As a result of the hostile response from the Protestant state, in the late 1960s, the peaceful civil rights campaigns developed into a violent conflict which encountering violence and counter violence by the Loyalist paramilitaries and with attempts to exercise control by both the police and army, lasted until the cease fires of 1994.

Several attempts to reform NI's political landscape were made following the outbreak of violence, including the Standing Advisory Commission on Human Rights, which was established in 1973 to advise the British Government on human rights legislation and policies (Livingstone, 1999). The origins of what became known as 'the NI peace process' can be dated to the signing of the 1985 Anglo-Irish Agreement, which initiated a permanent, institutionalised co-operation between the two governments dedicated to achieving a durable settlement in NI (Mac-Gainty, 1998).

Smith (1999) states that the Belfast Agreement, which was signed on 'Good Friday'- 10 April 1998 - was the most significant political development in terms of a peaceful resolution of the conflict in NI and its implications within the society were wide ranging. He saw the Agreement as an attempt to establish new democratic structures to replace the 'culture of violence' which had existed in NI over the past 30 years. Following the Agreement, direct rule was suspended until February 2000. In the following periods, the NI Assembly was suspended and direct rule re-imposed: Feb-May 2000; Aug 2001; Sep 2001; Oct 2002-May 2007. Since May 2007, the NI Assembly has been the devolved legislature for NI. It has full legislative and executive authority for all matters that are the responsibility of NI Government departments (Wiki, n.d.b).

According to Fitzduff and O'Hagan (2009), as a result of the conflict, in total there were over 3,600 deaths, most of which occurred in the early and mid 1970s. Catholics comprised the majority of those killed and it was estimated that about half the population of NI was closely associated with those killed or injured. The experience of conflicts and the peace process developed the civil society in NI. Many of those who endured the years of conflict became more aware of the nature of their society and the roles they could play in making it function more effectively (Mc-Cartney, 1999).

### **5.3.2. Children's Rights in Northern Ireland**

According to the most recent National Census (2011), the population of children in NI is 430,800 - about 1/4 of the total population. The UK ratified the CRC in 1991. As Children's Commissioners report, the conflict and its consequent impacts have had significant influence over the realisation of children's rights under the CRC. Parents and relatives of children in NI have lived through the conflict and this has resulted in residual 'after effects' for many children and young people. 'Sectarianism, paramilitary control, loss and bereavement result in an inability to cope or to access opportunities which all children should enjoy as their right. For example, access

to play and leisure, access to adequate health care, access to education etc, are often more difficult to achieve for those living with the trauma of the conflict' (Children's Commissioners, 2008: 6). One of the many impacts of the conflict is that children and young people continue to experience significant violent events and report much higher stress levels than children in the rest of the UK (Ibid).

The Commissioner for Human Rights indicated the impacts of conflict on children as: instability, dysfunctional social institutions (family, school...), requirements for additional political and budgetary decisions and children becoming a 'zone of peace' (Hammarberg, 2007). In recent years, the Commissioner in NI has raised concerns about police tactics and technologies with the Police Service for NI (PSNI) and its monitoring body. These include: the use of Attenuating Energy Projectile (AEP, a type of plastic bullet) as a means of riot control, the introduction of Tasers (electric stun guns) and the use of children as information gatherers for political ends (UK Children's Commissioners, 2008).

One of the most pressing children's rights issues in NI is poverty. Thirty years of conflict have had a significant impact on child poverty in NI and special measures are required to remedy the lack of infrastructure and investment (Ibid). There has been a problem of long-term unemployment, particularly among Catholics (Fitzduff and O'Hagan, 2009). The impact of poverty on children not only diminishes their childhood, but narrows their future opportunities. As adults they are more likely to be unemployed, or in low paid work, more likely to experience poverty, and have children who grow up in poverty (NICCY, n.d.b).

Report Card 7, published by UNICEF in 2007, ranked 21 of the world's most affluent nations by child poverty rate. The UK came 21<sup>st</sup>. In contrast, Finland topped the table with child poverty rates a fraction of those in the UK. Research in 2009 showed that, in NI, around 117,000 children were living in poverty, around 91,000 were experiencing persistent poverty (i.e. at least three out of four years) and around 44,000 were experiencing severe child poverty (Smith et al., 2009). While these figures indicate the number of children in poverty at one point in time, persistent poverty figures measure the proportion of children who are poor over many years. A Save the Children study showed that, over a four year period, one in five children in NI (21%) experienced persistent poverty. This means that they were experiencing poverty for at least three out of the four years (Monteith et al., 2008).

A distinctive characteristic of the education system in NI is its religious segregation, which poses another issue in the realisation of children's rights. The system is segregated by religion in that most children attend predominantly Protestant ('controlled') schools or Catholic ('maintained') schools (Smith, 1999). Since the early 1970s, a number of initiatives have emerged, including legislation and government policies in order to allocate a more prominent role for schools in the improvement of relations between the two main religious and cultural communities in NI. Despite

the attempts mentioned, segregation within the education system has appeared to be resistant to change at a structural level and most children continue to be educated in predominantly Catholic or Protestant schools (Ibid).

In its last two periodical reports, the UNCCRC has highlighted the need to take action to increase the number of children who are educated in integrated schools. The Department of Education has reported a slight increase in the number of children who are enrolling in Integrated Schools; however, a strategic policy to increase the number of pupils attending integrated schools should be developed by the Government (NICCY, 2008b). Other issues of children and young people in NI include discrimination on grounds of age e.g. physical punishment, as the current law does not provide children the same protection from assault as adults. Moreover, negative stereotyping of children and unfair and discriminatory restrictions are sometimes placed on YP in social spaces (NICCY, 2009c).

Children who have disabilities face barriers to access that children without disabilities do not face. Neither do they have access to an independent advocacy service to assist their participation in decision-making nor equal access to play and leisure facilities (NICCY, 2008b). Children with an SEN need to be assessed and given a statement in order to access the required support. This process usually takes a long time and a lack of consistency in procedures/protocols for assessing need, differential thresholds for intervention and particular difficulties assessing and diagnosing pupils have been reported in NI (Ibid). Traveller children are also extremely disadvantaged and discriminated against in comparison with their peers. They experience high levels of bullying and have poor levels of attendance and high dropout rates (Ibid).

Byrne and Lundy (2011) assert that services to support YP in deprived areas, particularly through mental health, drug and alcohol and suicide support services, are minimal and often do not take account of the impacts of conflicts on them. In addition, a combination of poverty, poor access to education and shortages of support services leads to a lack of hope, and some YP end in involvement in youth crime, self harm and suicide. According to Concluding Observations of the UN Committee on the CRC 2008, children do not have adequate access to safe, affordable, accessible and age-appropriate play. Given the detrimental impact the conflict in NI has had on children's lives over the past 30 years, there should be a more concerted effort to tackle the problems of poor play infrastructure.

Moreover, according to participants from NGO sector and academy: *'children's rights in NI are so much affected by human rights discussions and conflicts and the peace process, so children become very problematic in NI', 'we are more family focused and have a conservative culture and in the context of conflict in NI, defending children's rights might become political' and 'there was a high point in terms of children's rights in NI in 2006-7. But there has been a regression in the last 5-6 years and certainly the economic recession has had something to do with it'*

NI's first Minister for children and young people was appointed in August 2005 under Direct Rule. The NI Assembly has introduced many strategies aimed at improving the lives of children, such as the ten year strategy for children and young people (OFMDFM, 2006) and a wide range of stakeholders was involved in the development of the strategy, including children and young people. However, action on implementing the final strategy, which was launched in 2006, has been poor (NICCY, 2008b).

In 2008, the UNCCRC noted that the biggest obstacle to the realisation of children's rights in NI was the absence of domestic legislation which fully incorporates children's rights in legislation. However, when the UK's four Children's Commissioners and the Westminster Parliament's Joint Committee on Human Rights recommended that the UK Government incorporate the CRC in domestic law, the Government responded that the UK meets its obligations under the CRC 'through a mixture of legislative and policy initiatives' (UK Children's Commissioners, 2008).

More recently, there has been some evidence that increasing reference is being made to children's rights across a number of strategies, policies and action plans: for example, the Care Matters Strategy, the Families Matter Strategy, the Play and Leisure Policy and Implementation Plan (NICCY, 2008b). Lundy et al. (2012) note that the CRC has been referred to directly in domestic courts: for example, in judgments in the Family Division of the High Court in NI in the context of contact, residence and care proceedings, in which Article 3 is considered, and in custody cases, in which Article 12 is considered.

However, while there is increasing reference to children's rights within government strategies, practice remains inconsistent and understanding of the CRC and its implications is lacking. There are instances of significant time lags between the issue of consultation documents and subsequent plans for action and implementation, particularly in identification of a need for a strategy, policy or action plan and its final approval (Byrne and Lundy, 2011). Levels of awareness of children's rights across government departments are varied. Awareness-raising for those in senior positions in government is carried out quickly because of their heavy workload and time constraints, but 'taking a children's right approach means you have to shift your way of thinking and that takes time so that's a contradiction' (Ibid: 26).

The most significant barriers to government delivery of children's rights in NI are the lack of the following factors: commitment to children's rights, coordinated and joined-up government, participation and child impact assessment and evaluation, systematic child-budgeting, statutory system of children's rights impact assessment and systematic training on CRC to those involved in developing/implementing policy and legislation in NI. In addition to delays, children's rights in NI are suffering from insufficient disaggregated data and limited qualitative research (Byrne and Lundy, 2013b).

### 5.3.3. Establishment of NICCY

Prior to the establishment of NICCY, the Equality and Human Rights Commission were held responsible for protecting the rights of children. However, their capacity to focus on the rights of children was restricted due to the breadth of their tasks, their limited resources and the special needs of children in implementation of their rights (Haydon, 2006). In 2001, the NI Human Rights Commission undertook extensive consultation on the establishment of a Bill of Rights (Niens et al., 2006). One of the consulted bodies was 'Putting Children First' (PCF), a multi-agency alliance of organisations working with and for children to campaign for appropriate structures in and outside government. The Alliance argued that a Commissioner for Children and Young People was needed, because children aged 18 and under 'remained largely invisible in terms of government structures' (Haydon, 2006).

In 2001, the NI Assembly Committee of the Centre heard evidence from a wide range of departments and organisations about the proposal for a Children's Commissioner and submitted a report with recommendations to OFMDFM, which was debated in the Assembly. The Commissioner for Children and Young People Bill was laid before the NI Assembly in 2002, resulting in the Commissioner for Children and Young People (Northern Ireland) Order 2003.

One of the stakeholders recalled that:

*Before the establishment of NICCY, there was an awareness of children's rights. The Human Rights Commission and the CLC (Children's Law Centre) and others like Save the Children were working on raising awareness of children's rights. At the time of their establishment, NICCY's legislation was the strongest piece of legislation in the world for an IHRIC. We fought very hard for their independence, to ensure the CRC was referenced in the legislation as well as to ensure their power including of investigations.*

*NICCY was established on 3<sup>rd</sup> October 2003 with the principal aim to 'safeguard and promote the rights and best interests of children and young persons' (NICCY, 2004b). Nigel Williams was the first Commissioner for Children and Young People for Northern Ireland. He had been a founder of Childnet (1995), which was established to protect children from the dangers of the Internet. He had also worked in Westminster as head of public policy for Christian Action Research and Education (CARE), which was concerned with pornography. In 2006, he died of cancer (Guardian, 2006); Barney McNeany, Chief Executive of NICCY and Acting Commissioner in the latter stages of Mr. William's illness, was appointed as Commissioner on an interim basis for nine months, until a public appointment was made by the Secretary of State (NICCY, 2007).*

In December 2006 Patricia Lewsley-Mooney was announced as the second Commissioner for Children and Young People, taking up her appointment in January 2007. Prior to this she had

been a Member of the Legislative Assembly (MLA) and chaired the All-Party Group on Children and Young People; previously she had been a community advice worker. Ms Lewsley-Mooney was re-appointed as Commissioner for a second term of four years in January 2011, and was succeeded in January 2015 by Koulla Yiasouma, Director of Include Youth (an NGO working with disadvantaged and vulnerable young people) since 1998.

According to a former Head of Children and Young People's Unit in OFMDFM (2002-2005), NICCY was established at a time of excitement – devolution and a new NI Assembly and a new department (Office of the First Minister and Deputy First Minister). The Human Rights Act 1998 had come into force in 2000, and a Human Rights Unit had been established which promoted a culture of rights and responsibilities within government departments. What facilitated the establishment of NICCY was: a well-developed and influential voluntary and community sector, the influence of Trond Waage<sup>8</sup> and the transition from 'human rights' in general to a specific focus on children's rights (Stevens, 2013). As the First Minister announced in 2001: 'if there is one area on which there is common ground amongst all parties in the Assembly, it is surely our common desire for a better, more secure future for all our children'.

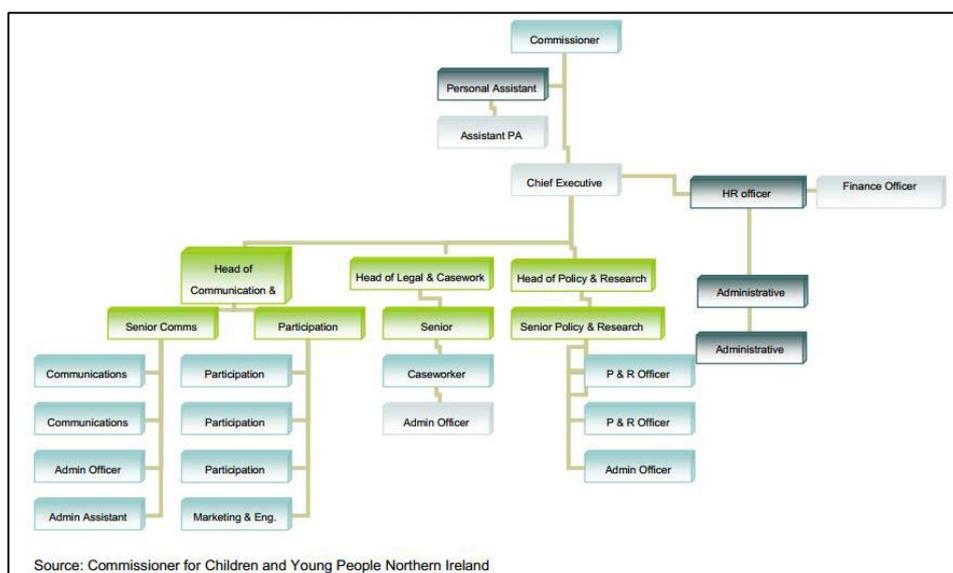
But this was not the case for the UK Government that took control of NI a year later. The suspension of devolved government brought NICCY a new type of engagement with the political structures in NI, especially in health and social care and education (NICCY, 2007). Following restoration of devolution in May 2007, responsibility for children's issues was accorded to the junior Ministerial portfolio under the auspices of the OFMDFM (Lundy et al., 2012). According to stakeholders, NICCY's influence was impeded by the collapse of the Assembly and suspension of devolution (Haydon, 2006).

#### **5.3.4. Organisation of the Office**

The institution is a corporation sole (it shares some corporate services: HR, Admin and Finance), which has an Executive Board consisting of the Commissioner, the Chief Executive, the Head of Research and Policy, the Head of Legal and Investigations, the Head of Communications and Participation, and the Corporate Services Manager. The Commissioner can have up to 28 staff. Figure 7 outlines the organisational structure of the Commissioner's office (OFMDFM, 2010). Two officer posts in the Communication and Participation Team have been vacant since 2010, but because of the freeze, the Commissioner is not allowed to recruit (NI Assembly, 2010). This raises a question about NICCY's independence, as it suggests that it is considered as part of government.

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<sup>8</sup> Trond Waage was Norway's Ombudsman for Children (1996-2004). He initiated ENOC and was involved in setting up IHRICs in Europe (Wiki, n.d.c).



**Figure 7.** Organisational structure of the Commissioner (OFMDFM, 2010)

The 2008 economic recession has had implications for the resources that NICCY receives from Government (OFMDFM, 2010). In 2012, its budget was approximately £1.8 million. However, NICCY’s provisional budget between 2011 and 2014 has been reduced by 3% each year. Yet, according to an OFMDFM’s representative, their resources are ‘generous compared to other IHRICs’.<sup>9</sup>

NICCY is an executive Non-Departmental Public Body (NDPB) sponsored by the Office of the First Minister and Deputy First Minister (OFMDFM). NICCY submits its annual reports to the OFMDFM (NICCY, 2013b). OFMDFM is required to commission a comprehensive review of NICCY every three years, with the purpose of determining the efficiency and effectiveness of NICCY’s operations and examining the delivery and validity of its functions in relation to government policy objectives (OFMDFM, 2010). In 2006, three years after the establishment of NICCY, an independent review was commissioned by PCF and conducted by Deena Haydon (Haydon, 2006). A second review was conducted in 2010 (OFMDFM, 2010). In order to maximise its impact, NICCY has tried to monitor its work, review and develop its organisational strategies and produce annual business plans (NICCY, 2011a). Even so, the Commissioner and her CEO stated that NICCY needed help in how to track, evaluate and isolate their impact.

### 5.3.5. Duties and Powers

A summary of Article 7 of the 2003 Order which outlines the duties of the Commissioner is as follows:

<sup>9</sup> In 2010 NICCY received £1.8m, which was the same as the Children’s Commissioner for Wales. Scotland’s Commissioner received £1.3m and England’s £3m with a much larger population, but those offices do not deal with individual cases (OFMDFM, 2010).

- 1) To promote an awareness and understanding of the rights and best interests of children and young people
- 2) To keep under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children and young people.
- 3) To keep under review the adequacy and effectiveness of services provided for children and young people by relevant authorities.
- 4) To advise government and relevant authorities on matters concerning the rights or best interests of children and young people.
- 5) To communicate effectively with children and young people and their parents and raise awareness of the function and location of the Commissioner and how they can contact her.
- 6) To seek the views of children and young people in exercising her functions and take into account the relevant rights contained in the UNCRC
- 7) To make the services of the Commissioner available to children and young people in their local area

The Commissioner has extensive powers of investigation and representation focussing on the rights and best interests of children and young people (which are not used adequately as reported by a participant from NGO sector). However, there are some limitations to NICCY's powers (OFMDFM, 2010). As the Head of Legal and Investigations put it, these barriers are as follows:

*If there is another body taking or likely to take the case, or even provide advice for a child, we cannot intervene. If there is another body doing or likely to do formal investigations, we cannot perform one. Additionally, we are asked for 'victim status' for issues like corporal punishment and, without that, we have to try to take some class actions on behalf of children... At the moment, we are really pushing hard to remove that [limitation], as the biggest impacts we can make are dependent on the victim status requirements being removed to make a class action on behalf of children.*

The Commissioner pointed out that NICCY are 'having discussions with the officials around the necessity and reasons of asking for more powers. So, it's moving forward'.

### **5.3.6. Advisory Boards**

NICCY has four reference groups which provide advice and support in key areas, as follows (NICCY, 2011):

- The Non-Governmental Organisation (NGO) forum which allows the Commissioner to hear the views and issues raised by these organisations, as they work with children and young people. It is also an opportunity for the Commissioner to update the NGO sector on the work she is doing.
- An Ethics Committee, with three independent advisors. The role of the Committee is to ensure all research and service reviews meet minimum ethical standards and are carried out following best ethical practice.
- An Audit and Risk Committee, formed in April 2006, with three non-executive members, who were appointed by open recruitment. The primary role of the Committee is to independently contribute to the overall process and ensure that an effective control system is maintained.
- A Youth Forum with 42 young people from across NI (NIYF); this panel acts as a representative consultation committee to provide the Commissioner with the views and opinions of children and young people within NI. Members are aged between 12 and 21 and represent different backgrounds and abilities.

The Commissioner's Youth Panel, which is distinct from the Youth Forum (NIYF), forms part of the Communication and Participation function (NICCY, 2011a). The Youth Panel acts as a consultation committee to provide the Commissioner with the views and opinions of children and young people in NI (OFMDFM, 2010). NICCY accesses its Youth Panel's ideas through a combination of face-to-face communication, web-based surveys and focus groups (NICCY, 2008a).

#### **5.4. Conclusion to the Chapter**

Both of the case study institutions were established in the mid 2000s as a result of the efforts of the civil society and the UNCCRC. A wealth of NGOs working for children has supported their establishment and work throughout these years. The main parts of the organisational structure of both institutions are: policy and research, legal work, and participation. The background of both the Commissioner and the Ombudsman is political, and they have tried to found youth panel as their advisors, and make it as inclusive as possible. However, NICCY has more powers and enjoys a generous budget despite being established in a region that suffers from poverty. Finland has struggled with shortages of resources and staff, and has had more issues with its independence.

## CHAPTER 6: FINDINGS AND ANALYSIS 2- CASE STUDY

### 6.1. Introduction

In this chapter, with the focus on mechanisms and outcomes of my case study institutions, I will show how Lapsiasia and NICCY set up their policies and follow their strategies. By studying their effective projects and comparing their approaches towards particular common issues of children, I will show how they try to impact law and policy. I will also demonstrate success factors of their best practices. Finally, I will present participants' evaluation of the impact of the case study institutions and their suggestions for improving their impacts.

### 6.2. Setting Up the Policies of the Institutions

#### *Lapsiasia*

The first three aims and priorities of Lapsiasia were ranked by the Ombudsman in the survey of ENOC members I conducted in 2012 as:

- 1) To promote full implementation of the CRC
- 2) To promote a higher priority for children and more positive public attitudes
- 3) To encourage government to give proper respect to children's views

After these, influencing law and policy was selected. The Ombudsman explains that: 'these are somewhat overlapping aims – some more general and some more in detail. It is difficult to put in order. CRC includes almost all the others'. She put the CRC as the first priority, while it is last in the list of duties set out in the Act.

When the Ombudsman for Children in Finland began working, children's interests were often not taken into consideration by decision makers, who had low awareness of the CRC, and the Ombudsman for Children with its insufficient human resources faced the expectations of civil society by receiving hundreds of contacts and inquiries from members of the public and collaborative interest groups (Lapsiasia, 2006). She recalls that:

*When we started, we did not have any knowledge about the work of Ombud in Finland and even in other places. We are such a small office with 5 people and not enough money for wide projects. So, I decided to stress on impacting the structures with my good contacts and skills to impact decision makers. Although law, policy and practice are very inter-connected, we have mostly worked on changing the policies and practices.*

A respondent from the Ministry reported that due to the circumstances of Lapsiasia, *'It's difficult to distinguish between the Office and Maria Kaisa as a person'* and the Ombudsman admitted that the institution is a very Ombud-led organisation.

The strategy of Lapsiasia was described in the following way by a member of staff:

*'In Finland, the problem is not the law, but mostly gaps in practices, especially in municipality levels... [as] each municipality decides for its own... If the government would co-ordinate better, in different municipalities children would get more or less the same services. The Office has always referred to the CRC and that there should not be differences in their rights and welfare.'*

### **NICCY**

In the 2012 survey of ENOC members I conducted, NICCY's first three aims and priorities were ranked by the Commissioner as follows:

- 1) To promote full implementation of the CRC
- 2) To influence law, policy and practice
- 3) To encourage government to give proper respect to children's views

After these, promoting awareness of children's rights among children and adults was selected. According to the first Commissioner:

When I [Nigel Williams] took up the post I had no staff, no office and...one of the key tasks facing me was finding the right office, in the right place, with the right design. As with most of the work involving the Commissioner, children and young people led the way... A panel of 12-18 year olds told us they wanted a location close to public transport links, with access directly from the street, finished to create a welcoming environment and with specific spaces for children and young people...After a lengthy process, we identified Millennium House as our best option...(NICCY, 2005).

However, in 2010, an OFMDFM review of non-programme costs showed that expenditure relating to premises had seen a rise of approximately 50%. OFMDFM decided that a prime city centre location was not necessary for the Commissioner to deliver its role. They recommended undertaking efforts to reach a mutually satisfactory agreement. No agreement was reached and NICCY left the premises a year later (OFMDFM, 2010). The stakeholders of the Office admitted that *'their previous office was a big and colourful place in the middle of Belfast and it was constructing children as right holder'*

In order to develop their priorities for the first time for their 2005-2008 Action Plan, NICCY carried out a large scale research project in their first year, comparing NI against the CRC (Children's Rights in NI; NICCY, 2004). They then carried out an NI-wide consultation exercise (the SHOUT) during 2004-5 to help them rank those priorities and identify areas that they had missed. During this project, 1,700 people were consulted about the priorities of the Office. As a result, NICCY identified 15 priority areas for action, as follows: having your say, bullying, play and leisure, road safety, special educational needs, children and young people with disabilities, mental health issues, poverty, troubles, child protection, crime, physical punishment, implementation of the CRC, knowing your rights and risk-taking behaviour (NICCY, 2005).

When reviewing the second action plan (2008-11), both staff and stakeholders welcomed the reduction in the number of priority areas from fifteen to five through another consultation exercise (UR Voice). NICCY's five priorities were: play and leisure, having your say, well-being and mental health, protection and equal treatment. Some were concerned that the Commissioner was still trying to focus on too many priorities instead of concentrating on big issues, or on those areas where they would have the greatest impact (OFMDFM, 2010).

The objectives of the third action plan (2011-4) link more closely to NICCY's legislative remit. These are:

- 1) Raise awareness of children's rights and the functions of the Commissioner amongst children, parents and other stakeholders.
- 2) Review and advise the Government on policies, services and legislation relating to children's rights.
- 3) Use the Commissioner's powers to challenge breaches of children and young people's rights.
- 4) Ascertain the views of children and young people in relation to issues which affect their lives.
- 5) Maximise NICCY's impact and corporate performance (NICCY, 2011a).

### **6.3. Strategies of the Case Study Institutions**

According to what I learned out of the survey and case study, my case study institutions have tried to pursue their aims through the following categories of activities:

- 1) Raising awareness of children's rights
- 2) Monitoring and protecting children's rights
- 3) Legislative and policy work
- 4) Networking

## 5) Children's participation

The institutions' strategies are indivisible and interrelated. Each of them could be applied as an input for addressing other strategies. And most of the time, a combination of the strategies are made in the institutions' projects and activities.

### 6.3.1. Raising Awareness of Children's Rights

Awareness raising is done at different levels of decision makers (e.g. members of government, judges, municipalities), professionals (e.g. teachers, legal professionals, social workers and NGO members) and the public including parents and children. Lapsiasia and NICCY use their websites, publications, training and workshops on children's rights and public events such as Children's Day (20<sup>th</sup> November) each year in addition to media coverage of their news.

#### *Lapsiasia*

As stated by a member of the staff, awareness raising of authorities is mostly done at the municipality level and not at the level of Government:

*Municipalities can decide on many things according to the framework the Government provides them... Now, their awareness is raised and they try to listen to children. It took many years for the decision makers to understand that, but if the Office was not there they would not have understood it yet.*

Lapsiasia has produced attractive publications about children's rights and activities of the institution (most of them in Finnish, so not read in detail for this research). In these publications, children are represented as happy, healthy and in nice clothes through photos taken in studios, not in their everyday life spaces which according to a childhood expert interviewed for this research, helps in the '*constructions of childhood as a happy joyful time according to the Ombudsman's values of childhood*'.

Lapsiasia's website for school age children - The *Lastensivut* website ([www.lastensivut.fi](http://www.lastensivut.fi)) - was reformed in 2012 and special attention was paid to increasing awareness about it among children and parents afterwards. The first version of the website was designed in 2006. The website is available in Finnish, Swedish, English and North Sámi language (Lapsiasia, 2013a) and children took part in developing it. The mascot used for the web pages, Sisu Cat, toured primary schools around the country. This gave the pupils the opportunity to learn about the rights of the child (Lapsiasia, 2009b). The Ombudsman's website for adults ([www.lapsiasia.fi](http://www.lapsiasia.fi)) is used to increase the openness and transparency of the Ombudsman's work and is available in Finnish, Swedish, English and Sámi (Lapsiasia, 2008a). Staff mentioned that in 2013, '*the adult version of the website had 55,000 visitors and the child version had 25,000. Many people visit the site regarding*

*child care, family, and school*' and *'the website is the most effective communication tool for Lapsiasia'*.

One of the other attempts of the Office to improve children's knowledge of human rights through training school teachers has been 'Compasito'. The original manual which is published by the Council of Europe provides basic information on the child's human rights and human rights education goals (Council of Europe, 2007). The 300-page book contains 40 training packs for children between 6 to 13 years of age. The guidebook, published in cooperation with the Council of Europe, was translated into Finnish by Kaisu Maijala and Marja-Liisa Tonteri in 2012. The publication is funded by the Ministry of Education and Culture, Lapsiasia, MLL, Central Union for Child Welfare, UNICEF Finland and the University of Applied Sciences. According to the participants, NGOs' and some teachers' feedback on Compasito has been positive, but due to the independence of schools in Finland, it is up to teachers and headteachers to decide to teach children's rights.

### ***NICCY***

According to Haydon (2006) the most effective ways of raising awareness about NICCY in the voluntary and statutory sector have been: its website, PCF and departmental circulations. These could also be good ways to publicise NICCY's achievements. In 2011, an audit of politicians showed that 95% of MLAs were aware of the Commissioner's work and of the CRC. Also, the Convention and children's rights have been increasingly referred to by Ministers and MLAs in recent years; however, most judges were not aware of NICCY and what it does (Lundy et al., 2012).

NICCY's website ([www.niccy.org](http://www.niccy.org)) has been popular and has attracted almost 150,000 visits across the year, including 17,000+ in one month. The site is also proving to be a valuable resource for people seeking information about the lives of children and young people. More than 2,000 documents are downloaded each month (NICCY, 2007).

During 2007-10, NICCY's Communications and Participation Team worked with almost 8,000 children and young people, explaining the work of NICCY, discussing the UNCRC and explaining its relevance for every child and young person in NI (NI Assembly, 2010). The team has been proactive in encouraging and securing media coverage. In 2007 the Commissioner completed 50 media interviews on issues including school transport, bullying, sexual offenders, young consumers, retention of DNA samples and speech and language therapy (NICCY, 2007).

NICCY's 'Train the Trainers' programme in supporting awareness raising of the CRC started with work in the two main teacher training colleges. This is expanding, with further training opportunities being explored in youth and community work. Also, in partnership with St Mary's

teacher training college, NICCY has developed a Masters in Education module on Children's Rights. This will be offered to teachers in the near future (NICCY, 2011a).

In 2010, OFMDFM's evaluation of NICCY revealed an unsatisfactory level of children's awareness of NICCY by using the survey Thomas et al. (2010) had designed. The results from the review's survey with children and young people (p.48) showed that 18% of those surveyed in schools were able to identify the Commissioner's logo and just under 30% of respondents had heard of the Commissioner for Children and Young People. In 2013, one of NICCY's stakeholders reported that: *'Most children and young people don't know about the Office. Young people in Justice and Care (almost 100% of them I have met) have not heard about NICCY.'* Furthermore, OFMDFM *'were hoping that after ten years, more people would know who they are and what they do. It would have happened if NICCY had made some actual changes, even in practice'*. By *'actual changes'* OFMDFM's representative meant activities that could be in the interest of the public such as *'the Schools Toilet Project in Wales'*.

In response to such criticisms, NICCY promised to review their communication strategy to increase the promotion of the work of the organisation in public domain: *'we have recently made some progress in establishing NICCY as a brand. Previously we only had some logos. We reviewed it over the last year and now we have a strong language that says what we do for children and young people across NI. And we need to develop that because all children and young people should know about our work.'* (CEO)

### **6.3.2. Monitoring and Protecting Children's Rights**

This is done through contributing to the State's report to the UNCCRC in addition to dealing with individual cases (for NICCY) and providing advice and referrals to individual contacts (for Lapsiasia), and monitoring provision and protection services for children, e.g. by assessing children's influence on children's welfare services.

#### ***Lapsiasia***

Government in Finland has submitted four periodic reports to the UNCRC, in 1994, 1998, 2003 and 2008. Finland's next (combined fifth and sixth) periodic report on the implementation of the Convention on the Rights of the Child will be issued by July 2017. In 2011 the Ombudsman produced a supplementary report to the last report of government to the UNCRC. In addition, Lapsiasia contributed to the fourth report of Finland's government (2008), as well as producing a report on the situation of Sámi children in 2011, and following up the Concluding Observations (CObs) of the UNCCRC.

Like other Ombudsmen in the Nordic countries, Lapsiasia promotes children's rights but does not investigate individual cases. The Parliamentary Ombudsman in Finland does handle individual cases (Lapsiasia, 2010c). The UNCCRC has recommended that the mandate of the Ombudsman

for Children be expanded, in line with General Comment No. 2 (2002) on the role of independent human rights institutions, to include the ability to receive and investigate complaints from children. In 2005, the Ombudsman for Children responded that she did not consider it necessary at that time to expand her mandate to include this function (2005). She argued that such a change would require detailed groundwork and additional human resources.

Although Lapsiasia does not handle individual cases, the Office has annually received hundreds of contacts from individuals. Most of these contacts have been about child welfare services, disputes over custody issues, shortcomings in educational arrangements and concerns about the influence of media on children. Those who get in touch with the Ombudsman mainly include parents, professionals working with children and other adults. Only a few of the contacts are made directly by children (Lapsiasia, 2009b), which is similar to other IHRIs (UNICEF, 2013). These contacts are referred to the relevant bodies, especially the Parliamentary Ombudsman or MLL.

Lapsiasia annually drafts numerous initiatives on the basis of contacts from the public on a range of themes, including the safety plan for road traffic, the national service level of the public transport system, the national human rights action plan, and the reform of the Paternity Act and the Adoption Act (Lapsiasia, 2012c).

Although the information received from individual contacts is useful in lobbying work and in monitoring the welfare of children, this task has been really time-consuming; the obligation for Lapsiasia to provide advice under the Administrative Procedure Act keeps the small Office occupied to the extent that the response periods tend to become too long (Lapsiasia, 2013b). The Ombudsman remarks:

*We are working with the Parliamentary Ombudsman and NGOs and our lawyer in Lapsiasia to show the need for more child law centres, hotlines and child friendly complaint making process... and the Parliamentary Ombudsman [to ask children during] investigations of services... We are trying to offer them some guidelines on how to ask children about their issues.*

### **NICCY**

NICCY works with the other Children's Commissioners in the UK to report on progress on the UNCRC. The UK's initial report was submitted to the UNCCRC in 1994, its second in 1999, the combined third and fourth periodic report in 2008 and the fifth in 2014. The Commissioner presented evidence on the progress towards children's rights in NI to the UNCCRC in 2007. The report of the Committee included the majority of the issues raised by NICCY (NICCY, 2013c).

NICCY is one of the ICRIs that deal with individual complaints. Indeed, *'a lot of NICCY's work is based on the individual cases that we get on the daily basis. Very often, cases can be resolved by making a phone call, writing a letter or making an intervention. That makes the outcome much*

*quicker and much more positive. However, if that does not happen, we have the opportunity to take legal action of some kind.'* (The Commissioner)

NICCY's legal and investigative powers let it identify gaps in service provision or legal loopholes, intervene in legal cases which concern children's rights, and take strategic cases as appropriate to highlight and challenge (NICCY, 2011a). As the CEO reported, *'The majority of cases have been coming from education and SEN. As well as SEN, there is the issue with bullying and cyber bullying. But there have been also cases on health, transport issues, housing and disabilities.'*

Over the last 10 years, an average 650 enquiries have been dealt with each year. Usually, complaints come from parents, carers or the young people themselves. NICCY also receives initial referrals from solicitors, youth workers, politicians, social workers and school teachers (NICCY, 2011b).

The Commissioner currently has two interventions before the European Court of Human Rights. They are around a child's right to privacy and the child's right to education respectively. This is believed to be the first time a Children's Commissioner/Ombudsman has been granted leave to appeal to the European Court of Human Rights. The case involving a child's right to education is one in which NICCY also intervened at Supreme Court level (NICCY, 2013c).

Although some stakeholders pointed to NICCY's casework as one of its assets, some others were very critical and considered it as one of the institution's weak points, especially due to NI conservative judges. A participant from NGO sector added that *'NICCY should not wait to be contacted by children in difficult situations only in individual cases. They should know, that if children don't contact them, it doesn't mean they don't need NICCY's help.'*

### **6.3.3. Legislative and Policy Work**

This is done through scrutinising government delivery for children, strengthening child-friendly structures, improving administration and coordination between departments and ministries in addition to providing advice to government on matters concerning children and submitting statements.

#### ***Lapsiasia***

Lapsiasia has tried to increase Finland's cooperation with the Council of Europe, seeking comparative standards on a Nordic level and in Europe. As an example, in 2006, when the most significant legislative process was the overall reform of the Child Welfare Act 1984, the Ombudsman worked on improving child custody process to listen to children's voices (Lapsiasia, 2007).

The autumn 2008 Municipal elections provided another important base to influence child policy. Lapsiasia and its partners emphasised the importance of child participation and welfare in connection with the elections (Lapsiasia, 2012b).

In 2010, the Ombudsman initiated discussion about new ways of organizing children and young people and family issues with the government. The focus of the discussion was introducing a Child and Family Minister in order to coordinate the various Ministries and ensure that the child and family do not fall between administrative sectors (Lapsiasia, 2010).

The Ombudsman has also sought to strengthen the children's viewpoint on the Government's consumer policy. Cooperative work on the issue of children as consumers was carried out with the Consumer Ombudsman in 2007 and 2008. Consequently, in 2008 Parliament amended Chapter 2 of the Consumer Protection Act to add the following: 'Marketing targeted at under-aged persons or marketing that is generally accessible to under-aged persons, shall be deemed unfair especially if it exploits the inexperience or gullibility of an under-aged person, if it is capable of jeopardising the balanced development of an under-aged person or if it aims to circumvent the possibility of parents to properly exercise parental guidance relative to their child' (Lapsiasia, 2009). I was told by the Consumer Ombudsman that '*after the change in the Consumer Protection Act, it's now easier to negotiate with businesspersons and they respect Lapsiasia more and pay attention to what they say*'. She mentioned improvements in their communications with businesspersons about alcohol adverts as an example.

According to the Ombudsman, one of Lapsiasia's main ways of influencing law and policy has been through working as a member of groups of Ministries as '*It is a good way of impacting as it is in the early phases of decision-making process. And offices are more open in these cases*'.

According to the participants, Lapsiasia works on adjusting their statements to the climate of decision making and the personalities of the politicians and attitudes of the institutions play an important role in the acceptance of those statements. The Ombudsman's statements are now taken into consideration especially the ones on the schools following the meetings with the Minister of Education.

### ***NICCY***

NICCY has developed a 'Child Rights Impact Assessment' process for assessing government strategies. The Commissioner has recommended that this process of assessing impacts should be integrated into those used by government (NICCY, 2013). Additionally, NICCY has reviewed the 10-year strategy for children and young people in NI, 'Our Children and Young People Our Pledge', and the associated Action Plan published by OFMDFM. While NICCY has welcomed the strategy, it stated that the action plan must be much more robust (NICCY, 2011c).

Having been advised by OFMDFM to do more policy work, NICCY has reviewed how it most effectively provides advice to government, and has subsequently changed the way of working in this respect. NICCY is seeking to engage with key departments more proactively on significant issues affecting children earlier on in the policy development process. For example, in the ‘Shared Education’ project, NICCY made a ‘*timely response*’ to the Department of Education consultation (Head of Policy and Research Team). Following educational policies of increasing contact between Protestant and Catholic students, in the Programme for Government 2011-15 a commitment was made by the Department of Education to establish a Ministerial Advisory Group to explore and bring forward recommendations to the Minister of Education to offering to assist the Minister by consulting with children and young people to explore their views and experiences of shared education among Protestant and Catholic students (NICCY, 2013d). The report of the consultation identified a series of key issues and indicated that it is important to clarify what is intended through ‘shared’ learning and to ensure that pupils are encouraged and supported to be genuine and equal collaborators (NICCY, 2013d). According to the Commissioner, the proposal of the Minister of Education on shared education will reflect the contents of NICCY’s report.

The Head of Policy and Research stated that ‘*Follow-up of our recommendations [and consultations] can get much of our time and effort and because they are so much and so broad, we cannot. But I think we should really do. You shouldn’t make a recommendation and not follow it up. This year we are trying to do some follow-up.*’ One of NICCY’s stakeholders who was particularly critical of their work believed that: ‘*Follow-up on statements should be done in a very systematic evidence-based way. In my experience, there is no point in putting out a two page briefing paper. You need to have a strong evidential back up and a clear strategy as to how you are going to follow through on it. Just moving to the next topic doesn’t effect change.*’

While Lapsiasia prefers working on policy rather than law, NICCY’s Policy and Research team sometimes ‘*finds advising on pieces of legislation happens quicker than policy because policy change is a very slow process. But legislation does have a more limited time frame and there is more public engagement and more scrutiny of Assembly. So, it is possible to have a little bit more of impact on legislation than perhaps on policy. Also, we know that changing legislation is more powerful. However, we have the Child Poverty Act and it’s powerful only whenever people could challenge and use the legislation to find the remedy.*’

#### **6.3.4. Networking**

This is done mainly at national and European levels with members of Parliament, government, NGOs and other regional and European IHRICs.

## *Lapsiasia*

The Ombudsman nationally networks with child rights actors and has improved networking for children's rights in Finland by bridging between NGOs and government. Additionally, collaborating with Lapsiasia has given weight to the advocacy work of NGOs according to the members of NGOs.

Lapsiasia declares its most important partners to be: decision makers that have strategic mandates e.g. (party leaders and key negotiators of government platform) in addition to National NGOs working for children's protection and well-being, Evangelical Lutheran Church and the National Youth Council.

An important partner of the Ombudsman is the Evangelical-Lutheran Church, whose service organisations for children and young people work to continue influencing the rights of the child within the church. Expertise on the rights of the child is offered for training of persons working with child affairs in parishes, in addition to promoting child impact assessment within the Church (Lapsiasia, 2013). Lapsiasia has collaborated with the Church in publications on moral education of children and positive parenting and celebrations of Children's Day. This strategy is despite the fact that, as I was told about by a participant from the Church: *'Now, few people attend the church and parents are more into 'ethics' rather than 'religion', and a member of the NGO sector: 'Nowadays in Finland, mostly elderly people, especially those who like singing, go to the church and very few children and young people and even their parents are there.'*

Stakeholders' influence on the work of Lapsiasia was ranked as follows by the Ombudsman (in the survey of ENOC members):

<b>Stakeholders</b>	<b>Influence they actually have (rank order)</b>	<b>Influence they should have (rank order)</b>
<b>Children</b>	3	1
<b>NGOs</b>	2	4
<b>Government</b>	1 (they set the agenda a lot)	3
<b>Media</b>	4	2
<b>Parents</b>	6	5
<b>Religious organisations/ churches</b>	5	5

Lapsiasia's European co-operation extends mainly to the neighbouring countries and the ENOC network consisting of European colleagues. Members of the Nordic Council of Ombudsmen for

Children work closely together. Norway, Sweden, Denmark, Iceland and Finland’s Ombudsmen for Children meet once a year. An example of the collaboration of the Office with the Nordic Council was a survey involving Sámi children conducted together with Sweden and Norway (Lapsiasia, 2008a). Also, in 2013, the Estonian colleagues became acquainted with Lapsiasia’s municipal lobbying and their work against corporal punishment and the Ombudsmen for children in Nordic and Baltic countries urged the governments of Estonia, Lithuania and Greenland to change the legislation in order to ban corporal punishment of children at home (Lapsiasia, 2013b).

### ***NICCY***

NICCY tries to build on the positive working relationship with the individual Committees of the NI Assembly, NGOs and other statutory organisations in the public sector, particularly the NI Human Rights Commission (NIHRC) and the Equality Commission for NI (ECNI) and their fellow Commissioners and Ombudsman in British and Irish Network of Ombudsmen and Children’s Commissioners (BINOCC). It also continues to seek opportunities with other organisations to share services in order to reduce cost and maximise service resilience (NICCY, 2011a).

*‘ENOC networking helps me share skills and experiences from other European countries; giving me the opportunity to share with other Ombudspersons some of my good practice, especially with regards to participation’ (Commissioner).*

Stakeholders’ influence on the work of the Office was rated by the Commissioner in the ENOC survey as follows:

<b>Stakeholders</b>	<b>Influence they actually have (rank order)</b>	<b>Influence they should have (rank order)</b>
<b>Children</b>	1	1
<b>NGOs</b>	2	2
<b>Government</b>	3	3
<b>Media</b>	5	5
<b>Parents</b>	4	4
<b>Religious organisations</b>	6	6

The Commissioner explained that ‘Parents have influence, as they make the complaints in most of the cases. Often government, and sometimes NGOs with competing interests act as obstacles for us.’

The CEO reported that NICCY focuses on *'working with these key Departments: Education, Health, Justice and the OFMDFM'*. But according to the OFMDFM representative, when they *'invited them to collaborate on a project which was one of NICCY's priorities, they refused and said 'we are independent'*. Stakeholders in the NGO sector thought that *'NICCY should improve their conversation with NGOs. They should not be standing alone to do things.'* and *'NICCY should expect NGOs' role as to sometimes work to support their work, but also to be a critical friend of them'*. In the ENOC survey, the Commissioner had stated that government and NGOs sometimes act as obstacles to NICCY functioning.

### **6.3.5. Children's Participation**

This is done in both countries through encouraging the Government to ensure children and young people's participation in decisions that affect their lives and developing creative and accessible mechanisms for listening to and engaging children and young people.

#### ***Lapsiasia***

Examples of the work of Lapsiasia in improving children's participation include promoting a focus on children's say in parental divorce/separation, continuing contacts on children's issues with Municipal Ombudsmen, providing children's perspectives for the development of school and the curricula and prompting the inclusion of children's perspectives in various reforms within government administration. In 2012, Lapsiasia and its partner organisations arranged a meeting for the UN Special Rapporteur with Finnish children and young people where they talked about *'the quality and institutionalisation of child protection, dissatisfaction in schools – which is relatively high in international terms – widespread school bullying and experiences of exclusion'* (Lapsiasia, 2012a).

The Ombudsman defines children and young people's participation in terms of mutual learning, respect and appreciation. She considers children as experts on their lived experiences as children have diverse experiences of different general services (day-care, school, public transport, library, sports) (Aula, 2013). According to the Ombudsman, the most significant obstacles to hearing children's voices in Finland are adults' insufficient time and inadequate skills for interacting with children of different ages. Also, adults do not always realise how useful children's experiences can be in developing services (Lapsiasia, 2011b). Recently, Lapsiasia has made a booklet of guidance for decision-makers on how to ask and listen to children's voices.

Lapsiasia also works with the Finnish Children's Parliament, which is a virtual council of children across Finland, and a 'Survivors Group' who are young people with experience of living in alternative care. The Finnish Children's Parliament is an institution that provides 9-13 year old children with an opportunity to express opinions and influence issues related to children. It is maintained by the Finnish Children's Parliament Foundation, which is funded by the Ministry of

Education and Culture in Finland (Tuukkanen et al., 2012). Contribution of the Finnish Children's Parliament to Lapsiasia's work is mostly through taking part in online surveys.

With regards to young people advisors, staff think:

*Being members of the Youth Panel might have changed some children's lives. In a way, they were given confidence, they learnt they had many capacities and ability to speak in public and their ideas were valuable...but, there are some children who are in difficult situations and we don't have contact with...I don't underestimate the value of the current young people advisors but they represent the middle class values...*

But the Ombudsman believes: *'The structure of young people advisors is already diverse. There are also disabled children in them. Its membership is based on applications by children and young people. We hope and try to encourage them to take part...I have been meeting Sámi young people separately up North annually but we don't have them in our young people advisors'.*

However, due to the shortages of resources and structure of their young people advisors, Lapsiasia cannot represent disadvantaged children and those living in remote areas of Finland. An expert in childhood studies commented that:

*Their young people advisors consists of more privileged young people and its structure is more 'participative representative democracy' and 'Bourgeois democracy'. They should consult academy and NGOs about children and young people participation models. I don't have a model for children and young people participation in mind now but, it won't definitely be through elections and meetings like now as those children in more need won't be selected and invited into those panels and meetings.*

### **NICCY**

The Commissioner and her staff listen to the voices of children and young people every day, by visiting schools and attending events to meet children and young people. The Commissioner recalled:

*'The very first piece of work we did in listening to children's voices was based on a case of a young person in care who said in a two year period they had seen ten different social workers. As a result of his voice, that policy was changed. Most young people in care now see one individual senior manager... so that young people will not have to constantly repeat themselves to everybody that comes.*

NICCY's main office is in Belfast; it used to have three or four satellite offices in Ballymena, Derry and Newry, but concluded that this was not the best use of resources. Now, participation officers go out across NI and it has been found that this works much better (NI Assembly, 2010). Moreover, according to the Commissioner, their legal team *'does out-reach clinics and it has made a difference because young people will raise issues that we probably haven't even thought of, like drugs and alcohol.'*

However, Haydon's independent review voiced stakeholders' concerns about lack of direct contact by the Commissioner with the most vulnerable and disadvantaged children, including those in care or detention, refugee and migrant children, children with disabilities or additional needs (Haydon, 2006).

One of the projects NICCY undertook to promote children's participation was 'Democra School'. It was about establishing school councils and impact on policy. NICCY received support from the main teacher unions and is working closely with the Department of Education to ensure appropriate guidance is given to school principals and governors. At a conference in the spring of 2013, the Minister for Education made a public commitment to establish a policy on school councils; and recently encouraged the use of Democra School in a statement to the Assembly (NICCY, 2013a).

NICCY's Members of the Youth Panel are recruited on a rolling basis by peer selection and there are no reserved places for particular groups of children and young people. Applications appear to be growing; recently, an invitation received 52 applications for 12 places (OFMDFM, 2010). A former member of the young people advisors stated that *'young people who are involved with NICCY are empowered and given opportunities. They return to NICCY for placements, support and advice'* and according to staff, *'Young people advisors also work on Media and YouTube, interviewing Ministers with a very good level of knowledge. In the Commissioner's meetings with Ministers, we give a third of the time to young people to speak'*. Young people advisors have also been heard at European level with presentations to ENOC amongst other connections across the UK and further afield (NICCY, 2013c).

Stakeholders who participated in two NICCY reviews (Haydon, 2006; OFMDFM, 2010) stated that NICCY's remit should include all children and young people and 'hard to reach' children, such as those in poverty, prison, care, with mental health issues, out of education, Roma, refugees and migrants. Members of NGOs working with marginalised children such as those in care and prison who participated in this research also criticised the structure of NICCY's young people advisors. A youth worker commented that *'Their current youth panel is not a youth friendly way of having a group. It's more like an adult way of doing things. They should be aware that there is no one model of participation. We should be ready to apply different models to find out which model works.'*

In response, the Commissioner explained that:

*‘We do not ask someone to be on our youth panel because he or she has a disability...[as] That makes them feel like a token gesture. We encourage all young people across NI to apply. In the last recruitment drive, 52 young people from a quite strong geographical spread and social background applied for 13 places, which are rolling. This means young people are aware of our Office across NI. We selected for our panel a young person who is a carer, a young person who is deaf, a young person who is severely disabled and young people from ethnic minorities...[in addition to] young people from Derry and from as far away as Enniskillen.’*

#### **6.4. How Have the Institutions Tried to Impact on Law and Policy?**

##### **6.4.1. Effective Projects**

See Appendices 18 and 19 for details of the effective projects of Lapsiasia and NICCY discussed in this section. These projects were identified by the Ombudsman, Commissioner, staff and participant stakeholders of each office as activities that had proved effective and made a difference to law, policy and practice. As follows, research has been one of the main inputs of the case study institutions in impacting law and policy.

###### **6.4.1.1. Lapsiasia**

###### ***School Satisfaction Survey***

Based on the results of the survey (2006), the Ombudsman has stated that children would like to influence school meals, playground equipment, decoration and the enjoyability of school spaces. They would also like to participate in the setting of school rules and organising school events. The Ombudsman has *‘tried to impact the national curriculum and make guidelines for municipalities... for improvement of school life for example, how they should invest budget on school yards.’*

###### ***Survey on Children’s Realisation of Their Rights***

Following what children said in this survey (2008), Lapsiasia has considered the situation and problems of parents as well, and has contributed to positive parenting. No further similar survey since then has been conducted to monitor any changes in how children perceive their school and family life yet.

###### ***Surveys with Minority Children***

Based on the findings of the survey with Sami Children (2007), the Ombudsman’s main recommendation to Government was amending the Basic Education Act and the Early Childhood Education Act to ensure that the needs of Sámi children are taken into account. Also, the CRC

was translated into North Sámi in an EU-funded joint project by Lapsiasia, Sweden and Norway; and the Ombudsman made its website available in the Sámi language, too. The Ombudsman reported that *‘This survey impacted Sámi adult community in addition to their authorities; after one year, the Sámi Parliamentary established the Sámi Youth Council and the Ministry of Education financed them. That was probably the clearest impact of this survey. Afterwards, the Government has had lots of drafting about Sámi children issues and language.’*

As an outcome of the survey with Roma children (2008), a National Policy on Roma was introduced by the Government in 2009, featuring concrete measures for improving the status of the Roma population in Finland. This was an important positive step. The findings of the survey were taken into account in drafting the National Policy which could have paid more attention to Roma children’s participation and their leisure and cultural activities (Lapsiasia, 2011b).

### ***Developing Child Well-being Indicators***

Several years of effort have been put into compiling the necessary data and developing national indicators reflecting the wellbeing of children and young people. A report on this project was published in 2014. According to one of the participants who was a childhood expert: *‘The project is about children welfare indicators, not children’s rights ones’.*

#### **6.4.1.2. NICCY**

### ***Children’s Rights in NI***

The research (2004) ultimately highlighted a need for action in implementing children’s rights in NI more effectively. It recommended a more consistent application of a children’s rights framework to policy development and implementation and that consideration be given to a statutory duty to co-operate at both central government and intra agency level (NICCY, 2004a).

### ***Children’s Rights: Rhetoric or Reality?***

This study (NICCY, 2008b) was commissioned as a follow-up to the 2004 research. It identified areas of progress and concern and set out a series of priority action areas that must be addressed if children’s rights are to be more effectively realised within NI. The report has been cited extensively by academics and individuals engaged in policy development and evaluation in the statutory and voluntary sectors, and has also informed the work of individuals and agencies who seek to promote the rights of children and young people through legislation, policy and practice.

### ***Barriers to Effective Government Delivery Report***

This report (2011) identified barriers such as delays in policy development, a lack of ‘joined-up working’, changes to staffing, inadequate data collection and analysis, and a lack of resources to implement policies and strategies for children. The report’s recommendations included: re-

prioritising children in the programme for Government and making children visible in budgets. It also included a proposal for ‘Children’s Champions’ within each government department, as a contact point and to coordinate delivery for children and young people. Children’s Champions are now in place and the Commissioner has supported and helped train these officials (NICCY, 2013a). In addition to that, one of NICCY’s other projects – Children’s Rights Legislation – has emerged from this study.

### ***Tackling Child Poverty***

NICCY’s Make It Right briefing (2010) on tackling child poverty outlined key information on the extent of child poverty in NI, and the impact it has on children’s lives. In 2012, NICCY commissioned research on welfare reform – on the likely impact of proposals on children in NI (Horgan and Monteith, 2012) and on the implications of ‘parity’ in relation to how much the NI Executive could vary from what was being implemented in England, Scotland and Wales (Fitzpatrick and Burrows, 2012). According to the Head of Policy and Research Team, ‘*An example of impacting legislation by NICCY is the Welfare Reform Bill. Prior to that, children were not mentioned in debates about the Bill.*’ NICCY also commissioned research on children’s budgeting in NI. This examined the process for allocating government budgets in NI and considered how the allocated funding results in the delivery of services for children and young people.

In addition to surveys and commissioned pieces of research, one of NICCY’s campaigns (Make It Right) and a legislative project of NICCY (Children’s Rights Legislation) were identified as effective by participants. These activities were not merely relying on research and applying only one of the strategies of the offices; they were combining strategies such as child participation, networking and awareness raising with the aim to impact law and policy.

### ***Make It Right Campaign***

This campaign (2010) encouraged children and young people to contact government, develop their own campaigns and help make sure that the issues that affect children day-to-day are listened to and valued by decision makers and to make sure that the promises of the UNCRC are delivered. Among the issues were: child poverty, children having a say, children with disabilities, children and care, and children’s mental health. Children and young people’s messages were delivered to government by NICCY (NI Assembly, 2010). The project also helped NICCY to develop its next three year Corporate Plan (2011/14) and improved children’s understanding of the UNCRC and who to contact if they feel their rights are being breached (NI Assembly, 2010). Outcomes of Make it Right campaign were used as an input for two other activities, the Children’s Rights Bill and Goods, Facilities and Services (GFS).

### *Children's Rights Legislation*

According to the Commissioner, the following activities have acted as an input for this project:

- Children's Rights Review (NICCY, 2008b)
- Make It Right
- Barriers report
- QUB Options Report (Byrne and Lundy, 2013a)
- Creation of a children's rights implementation group comprised of NGOs and academics (CRIG)

QUB's Options Report is based on Lundy et al.'s (2012) comparison work on legal implementation of the CRC in 12 countries which advised NICCY that the best way to incorporate the CRC into domestic law in NI is by passing a Child Rights Bill. In addition to creating the CRIG, NICCY has been networking and raising their awareness through organising a conference and training workshops for the CRIG and politicians. As reported by the Commissioner, the impact so far has been '*raised awareness and buy-in from Government*'. The Commissioner hopes there will be no need to have a Commissioner for children and young people after incorporation of the CRC:

*All of what we do are building blocks for the incorporation of the CRC to be made possible. After the incorporation of the CRC into legislation, the Government will mainstream children's issues... and that's mainstreamed through government and it becomes an automatic process. There won't be a need for me as a champion...and that's the ultimate aim and dream that you would want, maybe 15-20 years down the line.*

#### **6.4.2. Comparison of the Institutions' Approaches to Particular Issues of Children**

The issues that both institutions were interested to be compared with were corporal punishment, teenage suicide and disabled children. NICCY were particularly interested in learning how Lapsiasia had dealt with corporal punishment, although it was banned in Finland two decades ago. NICCY were also keen to know about the activities of Lapsiasia regarding teenage mental health, especially teenage suicide. This was due to NICCY's concerns about the increasing incidences of suicide in teenagers and searches for proper strategies to tackle it. I chose the project with deaf children to compare the case study institutions' activities with regards to children with special needs. See Appendix 20 for details of the activities.

In regard to corporal punishment, the difference is that, in Finland, it has been legally banned everywhere including at home since the late 1980s. However, in NI, the 'smacking debate' has been unsuccessfully on-going for quite a few years and parents are not banned from committing it. I was told by a member of NGO that despite the ban in Finland, there are still incidences of

corporal punishment perhaps correlated with socio-economic situations and substance misuse issues. The Office has asked children about the solutions and they have advised that parents should be supported, especially when they are facing difficulties. There have been also some activities on positive parenting in Finland. NICCY has done joint work with some NGOs to conduct a survey and lobby for banning corporal punishment; plus they have been working on spreading positive parenting. They are also planning to take the case to the European Court of Human Rights after they gain more powers via their legislation.

Concerning teenage mental health and suicide, I was told by a youth worker that in NI the cause is mostly conflict and poverty. In Finland, the staff believed that it is mostly due to fast modernisation and the solitude of young people. NICCY has intervened in some cases and made a report named as 'still vulnerable' but Finland has not been active as the rate has improved and they believe it is deeply rooted in their culture.

With regards to deaf and SEN children, there have been two different approaches from the case study institutions; in Finland, qualitative in depth research has been done with children, parents, teachers and medical professionals to investigate the culture of sign language. In NICCY, the scale has been large and structural and the children themselves were not involved much; their parents made complaints to the Office. This shows how much the work of IHRICs is dependent on their contexts and how challenging it can be to design a single evaluation method.

### **6.4.3. Examples of Good Practices**

I have selected the following examples of good practices of Lapsiasia and NICCY from those projects described as 'effective' by research participants. I have identified what works well in the case study institutions and the features of their best practice as:

- Satisfactory degree of children and young people's participation;
- Innovation/ impact/ good timing (combining reactivity and proactivity);
- Application of distinctive powers of IHRICs and good use of individual complaints;
- Networking and empowering NGOs;
- Making structures for children and young people's participation;
- Positive ethos (hope and appreciation).

#### **6.4.3.1. Lapsiasia**

##### *Care Tour*

There are nearly 18,000 children in care homes in Finland. During the Care Tour project, approximately 120 welfare 'customer' children were met by the 'Survivors Group' in six locations

in Finland. (The Survivors Group consists of 12 volunteer youths aged 16-26 years who are or have been in alternative care. They meet once a month for 4-6 hours with a psychologist as a mentor and a general manager from the NGO Pesäpuu). Initially the main purpose of the group was to develop tools for children and young people in care to discuss their experiences, but while the group was working they started to learn about the importance of young people's engagement in the care system. So, they started holding focus groups for young people in care to give them an opportunity to share their thoughts and become empowered. In 2008, the Ombudsman visited the group in Pesäpuu. She had the idea of a tour to other places in Finland to ask children and young people in care about their situation and welfare in alternative care and supported the survivors group's project. A report of the tour was published in 2012 and reprinted in 2013 and more than 20,000 copies in addition to a handbook for children and young people in the care system have been distributed across the country (Barkman and Vario, 2011).

A young person from the Survivors Group recalled:

*'When we saw her [the Ombudsman] we realized that some people wanted to listen to us. She forwarded our experiences to the policy makers and... [took us to meet] the child friendly politicians which are a group of politicians that Maria Kaisa [the Ombudsman] does her lobbying and working with them. After the meeting there was a session in the Parliament and politicians discussed about making or changing a law. So it was bang on time... If she had not come to see us, we would have still been doing the meetings in our small group and small NGO.'*

The report of the tour *'We Believe in You – You Should too'* of the tour *'Protect Dreams, Cherish Hope: Young People's Recommendations for the Development of the Quality of Child Welfare Services and Alternative Care'* made an important contribution to the public debate on the quality of child welfare services in Finland. The violent death of an 8 year-old girl from Helsinki in 2012, who was a child welfare services customer, raised a lot of debate and provoked demands for improvement of child protection services and produced an exceptionally large numbers of contacts from citizens to Lapsiasia.

In a timely reaction, the Ombudsman made a proposal for an extensive independent investigation. This received a positive response, and the Minister of Justice set up an investigation group to study the background of the case. Additionally, in a toolkit for child protection *'Rescue Programme'* that was distributed to municipalities, care homes and professionals, the Ombudsman urged the government to evaluate the services for children and listen to the voices of those children who are the customers of those services (Lapsiasia, 2013b). The Ombudsman stated that:

*'Lapsiasia has made 3,000 copies of the report to municipalities, care homes, professionals with the idea that children should be heard when evaluating care homes. Evaluation of the care system and welfare system has been very rare and occasional as a whole in Finland. Now, they try to improve but there are no national quality controls. We have just a child welfare Act and try to implement it.'*

According to the staff:

*The report is being taught to social work students and those who start work at care homes. Also, after the tour, applying for public money has become easier for NGOs working on child welfare...The survivors group proved to be competent and took the responsibility to run the local forums very seriously...The next phase will start in 2014 which will involve adults. The adults' tour will be for local authorities and social workers and politicians to make some changes in law and policy.*

The Ombudsman described the outcomes of the project as follows:

*'A working group to improve the child welfare was set. One member of the survivors group...was selected to be in the working group of the Ministry. I am sure it will have an impact. We hope children to be acknowledged as insiders of the child welfare development. In care tour, perspective of children and young people was transmitted into changes of law and policy (child welfare act) through Lapsiasia work. In 2008, the changes to the Child Welfare Act were not drawn from children and young people. Also, the Parliament has decided to take the Survivors to the investigations of care homes'.*

She identifies the success factors as:

*'Networking was a crucial issue. It was also a new way to think about children having their own thoughts. There was also demand for this in child protection. We also had young people working with us from the beginning (2008) so, it was a long standing co-operation. In addition to our national partners, we had these very key people in local areas that were interested in taking part but I would mention young people as the most influential.'*

The tour project has also gone global by attending 15 international conferences and translating the report of the tour into English and Swedish.

As a continuation plan, and in collaboration with the National Institute for Health and Welfare, Pesäpuu and the Central Union for Child Welfare, a project (2013-2015) has been launched in Pesäpuu for collection of experience-based knowledge of small children (ages 6–8) placed in alternative care (Lapsiasia, 2013a).

Some impressive features of this project are: face-to-face contact with children; young people who had experience of the care system empowered children in care; supporting an NGO by application of the powers of the Ombudsman. Lapsiasia made good application of a project which was initiated by an actor instead of starting a similar activity of their own. Furthermore, the institution showed quick reaction to a tragic failure of the care system and amplified the impact of the tour.

### *Child Friendly Municipalities*

A municipality reform has been planned which involves democracy issues especially amending the Youth Act. In accordance with the Youth Act, the first Finnish Government Child and Youth policy Programme 2007-2011 was adopted in late 2007. This includes for example, a commitment for introducing broad concept of web-based youth work in Finland. In Finland the previous government had a goal that at the end of 2011 every municipality should have a system in place for children and young people's participation. At present there are youth councils in about 80% of the municipalities in Finland. All Ministries, many NGOs and academic researchers took part in the process of drafting the programme (Lapsiasia, 2012c).

Lapsiasia has contributed to the reform by its 'Child Friendly Municipality' project; a survey was conducted in 2012 in addition to networking and lobbying to increase the feasibility of children's participation. The survey on 'Good Municipality' was conducted in February-March 2012 with Finnish Children's Parliament members. Approximately 140 children aged 9 to 14 years of age from different Finnish municipalities took part. The aim was to obtain information on how the local government services seem to children, and how they feel they can influence the affairs of their municipality. Lapsiasia emphasised this necessity as children and young people have a lot of experience in Municipal services, so it is wise for the municipality to take advantage of asking children's ideas in the development of services. Also, improving the situation of children and young people is arguably in the interest of taxpayers, in that preventive services for children and young people tend to be better value than fixing problems when they arise later (Lapsiasia, 2012c).

Throughout the Survey on 'Good Municipality', 42% of children said they had no influence on their municipality's decisions. By influence, it was meant that children can express their opinion and that they are listened to. The main influencing mechanism for children was considered to be through Children's Parliaments, as well as the school. Municipal services that mattered to children most were: school, sports and recreation, library, public transport and health care. Participants noted that a municipality fit for children and young people to live should have

opportunities for learning, moving, playing, hobbies and eating well, a safe living environment and adults with the right attitudes towards children and young people who are interested in children and young people's opinions (Lapsiasia, 2013c).

After the survey, a group of children and young people from municipalities that had the experience of participation made a statement for decision makers, a workshop was led by young people for the officials in the Ministry of Finance who were responsible for municipality reform, and a leaflet entitled '*Child-Friendly Municipality Creates Wellbeing*' (2012), containing information on how to listen to children's voices, was delivered to every municipality (Lapsiasia, 2013c).

As the Ombudsman explained:

*'I have been in the working group of the Ministry for the reform of municipality especially about democracy issues. I raised the issue of children and young people participation. After one year of work, the group decided in their proposal that municipalities should have obligatory Youth Councils (for under 18s). Also they agreed to study possibility to lower the age of municipality voting age from 18 to 16. The working group has been given a green light to continue to draft the obligation law for young people in municipalities.'*

The aspects emphasised in the working group included lobbying work at a municipal level and utilization of the experience-based knowledge of children and young people. The *Child-friendly Municipality* will remain part of the Ombudsman's lobbying work. The new Municipal Councils will adopt a wellbeing plan for children and young people, pursuant to the Child Welfare Act 2008 (Lapsiasia, 2013a).

Lapsiasia's Advisory Board will take an active stand on the municipal reform as it proceeds. The Ombudsman for Children will also participate in the preparation of the overall reform of the Local Government Act as a member of its democracy division. The Ombudsman meets regularly with experts and management of the Association of Finnish Local and Regional Authorities in child-related matters. She also co-operates closely with the Association of Finnish Youth Councils (Lapsiasia, 2013a).

The 'Child Friendly Municipality' project contributes to preparing a practical context for structures for children's participation in their everyday lives. One main reservation however, would be the solution it recommends to municipalities as the main requirement for child participation: Youth Councils which are not fully inclusive and to some extent, it could be argued, a pale imitation of adult democratic institutions.

### 6.4.3.2. NICCY

#### *Goods, Facilities and Services (GFS)*

NICCY's CEO introduced the project as follows:

*The NI Government has been working on improving age discrimination legislation so that it covers providing goods, facilities and services [the equality legislation being brought forward under a single Equality Bill (NICCY, 2011c)]. However, NICCY and the Equality Commission for NI are concerned – based on info coming from the Assembly – that children and young people under the age of 18 may not be covered by the proposed changes to the law and started co-working on the GFS project from 2012. It has been on-going. GFS is more than young people's consumer rights. In NI, for example, we have evidence from young people that they have to leave their schoolbags outside shops or are not permitted to enter certain shops at certain times or in groups. They also have problems with home rental, gym entrance... some young people with mental illness are kept in adults' wards. For example, in 2007-9, 200 young people were kept in adults' wards.*

NICCY consulted its young people advisors, who challenged the media perception of young people and appeared on television and radio news shows to make sure children and young people's issues were delivered into homes across NI. This included the 'We Want the Airwaves' campaign, which highlighted children's rights in the media. Young people's views were vital in campaigns such as the 'Young Consumers' research and report, where the Youth Panel undertook a role as field researchers. They are also contributing to work that challenges potential discrimination against under-18s in forthcoming proposals for change in legislation to outlaw discrimination in access to goods, facilities and services (NICCY, 2013a).

According to NICCY's CEO, the Office has started an online campaign or petition to be sent to OFMDFM, has had ongoing liaison with relevant statutory agencies and co-worked on a policy paper with other stakeholders. As a result, meetings have been arranged with the relevant politicians, the working group of the Parliament has agreed to inform the members of the Parliament and the public has supported the project. The impact of this project will be reduced negative stereotyping of children and young people and amendment of current issues in relation to age-appropriate services.

GFS's impressive features include the following:

- Effective way of targeting decision makers
- Solidly built on one of NICCY's previous activities with children and young people (Disable the Label)
- Good timing
- Level of children and young people's participation

- Networking
- Affecting children and young people's everyday lives (similarly to the Welsh Commissioner's School Toilets project)

### ***Speech and Language Therapy Services Provision (SLT)***

It is estimated that around 7-10% of children are affected by speech, language and communications difficulties (NI Assembly, 2010). NICCY *'have been proactive in the area of speech and language therapy. Before I took up post, 128 complaints, particularly about special schools, came to us from parents and young people about the services that they had been denied'*. (Commissioner)

In 2005, the Commissioner launched a review into speech and language therapy services in NI. The review identified that standards of services and waiting times for children and young people varied widely across Northern Ireland. The review was carried out under Article 7 (3), which provides the Commissioner with the power to review the adequacy and effectiveness of services provided for children and young people by relevant authorities. Having carried out action research in one of the centres providing SLT services, it identified six key recommendations for improvements, the implementation of which was monitored during 2005/6 (NICCY, 2005).

The Commissioner reported that: *'As a result, our report came out and showed very quickly that the allocation of services was based on a postcode lottery and that the majority of speech and language therapists were spending their time on administration work, such as answering the phone, cancelling appointments and making new appointments'*. In 2006, in response to increasing complaints about services, a follow-up review showed more than one-quarter of children were still waiting to access services. The Commissioner added:

*We have the power to carry out a formal investigation to identify the gaps. We said that we intended to do that, and the Health Department asked us to have a conversation and try to come to a compromise. That time, the compromise was that the Department put £1.2 million into the budget to help with administration, and established the taskforce on speech and language. The taskforce did its work and made recommendations. Sadly, for whatever reason, those recommendations sat in the Department for some time. We are disappointed with that.*

In both reviews, NICCY recommended that a regional approach to SLT services was required and that a Taskforce and Action Plan were needed. Following this, the Health Minister promised to invest in services and establish a Taskforce *'to explore in greater depth the relevant issues identified in the NICCY reports'*. The Taskforce report was published in 2008 and the Department of Health, Social Services and Public Safety set up a team of relevant agencies to develop an

Action Plan, which was launched in 2011. This noted that NICCY's reviews resulted in additional funding for services. The Action Plan included commitments to develop a regional commissioning framework, establish partnership agreements between the Health and Education Departments and reduce waiting times to nine weeks (NI Assembly, 2010).

Speech Language and Communication Strategy was the outcome of two reports NICCY produced in 2006 and 2007 on the problems of children accessing Speech and Language Therapy. As a result of NICCY's work, a number of working groups were established, resulting in this Strategy (NICCY, 2011b).

The project was identified as an example of good practice on account of:

- Effective application of NICCY's unique powers (threat of formal investigation)
- Streaming individual cases to influence law and policy
- Long-term follow-up
- Considerable improvement to services
- A good piece of research which showed the gaps while its action research element indicated the solutions to authorities
- A fine combination of case work and response to consultation

### ***Participation Awards***

To further support and work towards mainstreaming children and young people's participation practice within individual government departments, NICCY developed a 'Participation Policy Statement of Intent' (PPSoI) in which all Ministers were invited to consider and endorse. The document builds on the commitment identified in the NI Executive's 10-year Children's Strategy and three year Action Plan to involve children and young people in the decision-making process. NICCY urged and expected statutory bodies to work towards this over time and, ultimately, develop participation policies and mainstream into all practice (NICCY, n.d.).

A member of the Communications and Participation Team said that, by summer 2013, '*11 out of 12 government departments have signed up to the Participation Policy Statement of Intent (PPSoI). In addition nine local Councils, four Health and Social Care Trusts, and two Education Boards have made this public commitment to the participation of children and young people in decision-making*'.

In addition to the PPSoI, and while aware of the work of a variety of external organisations, it was also clear to the Commissioner that, while there may not have been strategic or departmental level participation policy, there was significant work being undertaken throughout government departments and the agencies that reported to them (NICCY, 2011b).

In early 2011, plans were initiated to develop the Commissioner's Participation Awards through a participative process for young people to identify and reward public sector best practice. The aim of the awards is to encourage government and decision-making bodies to ensure participation of children and young people in decisions and policies that affect them, by highlighting and awarding best practice in this area (Ibid).

The award panel was comprised of a group of diverse young people from a geographical spread and social background who sat down together and creatively created criteria for these awards. Then, they judged each of the applicants according to the values of the awards which were: engage, listen, rights, voice, respect, involve, equality, change.

NICCY has held its Participation Awards twice, in 2011-2012 and 2012-13. Applications have been received from a range of government departments and public bodies working in the fields of health, arts, justice, transport, public safety and regulation. There were two categories in 2012-2013's awards:

- 1) Putting youth at the forefront
- 2) Creating space for young people in decision-making

A lot of interest was shown by Government and police representatives who attended the awards ceremony. One of the winners was a local public transport provider who had asked children's advice on what kind of service transport was suitable for them.

The Head of Communication and Participation Team explained:

*'NICCY has two ways of raising issues with government: 1) that they 'must' do some changes, 2) through the awards [through which] we have discovered that, in so many of the departments, there had been attempts to engage children and young people and listen to them'.*

I was told by the team that, when NICCY tried to evaluate the project by asking for feedback from those involved in the project, it found that young people felt that they were strongly involved in the development of the awards process and in recognition. In an evaluation survey, applicants replied that it had been very encouraging to see so many organisations involving children and young people in decision-making processes across a number of policy areas. Applicants found that the awards highlighted the good work being done in the area of youth participation and encouraged more organisations to provide meaningful opportunities for young people to get involved in decision-making. The next phase of the project will be following up the applicants about the impact of taking part in the award.

The project was identified as an example of good practice on account of:

- Innovation
- Appreciative approach to recognise what has been done by Government for children and young people's participation
- Follow-up of PPSOI by children and young people and preparing structures for children and young people's participation

***(Precautionary) School Suspensions (PS)***

The Head of Legal and Investigations introduced the project as:

*In 2012, a child had taken a case in relation to being suspended from school. They felt they had no voice. We intervened at the Supreme Court level [by funding the legal work] and the result of the case was that the applicant adopted all the arguments that we had made around children's rights and Article 12. The result was that the suspension was ruled to be illegal. We then engaged with the Department of Education around that and around new guidelines coming out to ensure that schools comply with this. I do think that we had an impact, both on that child and on the system'.*

The Head of Legal and Investigations identified the impact of the project as law and policy change in regard to Article 49 of the Education and Libraries (NI) Order 1986 which requires each education legal board (ELB) to prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils and requires the scheme to set out the appeal procedures. Also, she was hoping that ELB would produce guidelines for all schools on suspensions. However, she noted that NICCY will not be informed of the effectiveness of the action.

The solicitor who worked with NICCY on the case was hoping that *'as a result, the Catholic Church maintained schools will change their policy to hear voices of those students in cases of school suspensions.'* and the CEO had hopes that the project *'will have a wider effect because it has been publicised through ELB (Education Legal Board) and principals will talk to their other colleagues in other schools. So, they will influence their colleagues' practices.'*

According to the Commissioner, the project has also been followed up, too:

*'[The judgement of ]the Supreme Court of Human Rights was that it was OK to get a child four or eight hours per week away when they were out of school. We took it to the EU Court because, at the time of exams eight hours a week is problematic...once it comes out of the European Court, we need to ensure that our Departments here act on that. We've been tracking the outcomes of the Supreme Court about the lack of process and procedure. That has now been ratified and we are monitoring the Departments to ensure that they*

*implement that...So, we have seen a change in the processes and procedures for suspensions. What we want to see now is a bit of guidance on the legislation and how children and young people should be dealt with.'*

This project shows how individual cases can successfully impact law and policy and have greater impact than just an individual child's life. It shows how effective strategic approach towards identifying and dealing with individual cases and following up the cases can be.

## **6.5. Evaluation by Participants**

### **6.5.1. Contextual Sources of Assistance to the Institutions**

Based on the interviews with the Ombudsman, the Commissioner, staff and stakeholders of Lapsiasia and NICCY, strengths and contextual factors that help the institutions include: power and remit, staff, political independence and background of the Ombudsman and Commissioner. These were common for both of the case study institutions. Differences of the contextual sources of assistance to the institutions were: resources (for NICCY) which are *'luxurious compared to other organisations'*, and network (for Lapsiasia).

Remit and powers of the institutions were referred to as a *'unique statutory body for children and young people'* that has *'access to Ministers'* and is *'being consulted by decision makers'*. Staff were described as experienced, committed and politically aware. With regard to political independence and background of the Ombudsman and the Commissioner, there were some opposing views.

The Ombudsman stated that *'Something that I am proud of is that even though I have a background in policy and politics, our stakeholders consider us as independent'*. The Commissioner herself thought: *due to the kind of politician I was, I had built up the credit by working across the parties. And the fact that no one has said I did something due to my political background. So, it was a plus for me and whenever I meet a politician, I am ready and have done my homework and have confidence and talk confidently around the issues. So, I see my political background as an opportunity rather than a bad effect.*

In Finland, not all participants thought the same way about the personality of the Ombudsman and her background in politics:

*'Maria Kaisa was a politician who knew nothing about children' and 'Lapsiasia is very much dependent on Maria Kaisa's personality and background. She comes from a conservative family and promotes their values; a family-centred rural area where childhood is a happy, sunny, summer day life.'*

In NI, stakeholders in OFMDFM stated that: *the political background of the Commissioner is not a bonus. Wales Commissioner has done well and his background has not been in politics. Someone from a different background might be more independent than a former politician.*

### **6.5.2. Impact of the Organisation on Law, Policy and Practice**

Participants mainly pointed to the greater visibility and priority of children's issues in policy-making, greater participation, and raised awareness of children's rights as impacts of Lapsiasia and NICCY.

The Ombudsman reported that *'the most significant impact of Lapsiasia has been more emphasis and encouragement on the participation rights of children.'* The Commissioner identified NICCY's most significant impact as: *'making children visible and having their voices heard and reflected in the decisions on a daily basis* and the CEO stated: *'I think the most impact has been in the various departments of Government that consider the voices and lives of children and young people, especially those excluded from education, in care, in prison, in poverty.'*

When I asked them, staff had difficulty in pointing to specific impacts of Lapsiasia and NICCY. In Finland, they thought it was too early, the Office had not undergone any evaluation, isolating their impact from the other actors was difficult and recording and following up their work was not practiced in the organisation. In NI, *'... change comes very slow. Making any changes due to NI political system was difficult. We should be realistic about what we can do. We don't have our hands on the policy levers. We are about challenging, persuading and advising.'* (Head of Policy and Research)

It was not easy for the stakeholders of the institutions to identify their impact, too. Apart from the mentioned reasons, their knowledge of the activities and achievements of the Offices was insufficient. However, they mostly thought that Lapsiasia and NICCY had helped in changing mindsets and identifying the gaps in the implementation of children's rights. Like stakeholders, raised awareness of children's rights was mentioned by staff, too: *'A lot of our decision makers now refer to the CRC'* and *'Now children and young people are more aware of their rights.'*

There were opposing views as well:

*'the impact of Lapsiasia is very mediated impact and of course she cannot do miracles. There has not been an evaluation of their impact. So, my views will not be research-based. I believe the main focus of Lapsiasia should be on impacting law, policy and practice'* and *'Lapsiasia is the least known Ombudsman in Finland... they don't have any power other than questioning and reporting children's situation.'*

And

*'I don't think NICCY have had an impact on the NI wide level law or policy e.g. the age of criminal responsibility. They've had some high profile events rather than significant impact on law and policy.'*

### **6.5.3. What is Needed for a Stronger Impact?**

The suggestions of the institutions' stakeholders could be categorised as follows:

#### ***Raising Awareness of Children's Rights***

Participants thought that more work was needed on CRC education at schools, both for children and professionals. It was suggested that for children living with difficulties awareness raising campaigns should be ongoing instead of adhoc events, and all professionals working with/for children should be trained systematically.

#### ***Monitoring and Protecting Children's Rights***

It was recommended that children's services should be monitored and supervised more by both institutions. NICCY was advised to improve its legal work through *'Asking for more involvement in courts, taking cases to court in NICCY's name and performing formal investigations'* and *'Taking the right individual complaint, challenge and way through to EU for corporal punishment and the age of criminal responsibility...[as an IHRIC] they can take strategic cases that will impact significantly on legislation even in Britain and potentially across Europe'*.

#### ***Legislative and Policy Work***

Participants thought that the institutions should focus more on policy work and long term changes, and do *'general things [like the Schools Toilet Project in Wales] for public instead of academic research'*.

#### ***Networking***

It was raised by the participants that more collaboration with NGOs and human rights actors and the institutions' advisory boards were needed in addition to *'more networking with university experts especially in childhood studies and children's rights field'*

#### ***Children's participation***

It was suggested that for a stronger impact on law and policy, institutions should improve children's participation through *'getting the participation policy into legislation'*, searching for effective methods of listening to children and young people in difficulties, and changing the way their youth panel advisors are elected and run. Some participants thought more engagement of teenagers and young children (pre-school age) was needed and a youth worker commented that IHRICs should *'leave the youth work to expert NGOs'*.

The above suggestions were common for both institutions. Two different points were raised with regard to the institutions by the participants; For Lapsiasia, maintaining the independence of the institution, by being supervised by the Parliament instead of Ministries and especially by providing more staff and resources: *'more staff and resources (At least 3-4 more staff (among them 2 lawyers) which needs more respect and understanding from the government'*. For NICCY, review of its legislation, particularly about class action and duplications in addition to realising and using the potential in NICCY's legislation to its maximum.

#### **6.6. From the Case Study to Impact Evaluation Tool**

I would suggest that an impact evaluation tool should ideally work like my case study; it should be able to reveal the institutions' sources of assistance in their contexts, identify their effective mechanisms and document their outcomes. What proved really helpful for my case study was working on individual effective projects and best practices of the institutions. Due to the indivisibility of IHRICs' strategies and to avoid making their impact evaluation even more complex, I would propose a tool that could assess IHRICs' individual activities through combining CMO approach with AI. Then, the institutions could reflect on a collection of these micro evaluations and find out about their overall impact and what has generally worked for them well. Obviously, they could also learn about what has not worked well for them through studying the projects that have not been effective. The impact evaluation tool should be flexible and enable the institutions to learn about their assets and reflect on what they could do better while evaluating their impact. It should also have the capacity to be employed from the early stages of planning an activity until the finished programme still makes an impact. It should have a focus on children and young people's participation and ask for convincing evidence of the impacts made by the institutions. The impact evaluation tool should also assist the institutions to stay on their path while pursuing their aim in impacting law and policy. I will introduce my proposed impact evaluation tool and discuss it further in chapter 7.

## **CHAPTER 7: DISCUSSION**

### **7.1. Introduction**

The research question concerned IHRICs' impact and how it should be evaluated. Based on the survey conducted in the first phase of this project and consultation with ENOC experts, it was decided to focus on IHRICs' impact on law, policy and practice and then involve the selected staff, NGOs, children and young people and government in the second phase. Two institutions agreed to act as the case study institutions and help to find the proper ways to foster the impact evaluation of IHRICs. This chapter discusses the findings in regard to attempts to engage in a study of CMOs alongside the AI ethos of the case study institutions. Through combining these with learning derived from a literature review, a template for evaluating the impact of IHRICs on law, policy and practice will be presented.

### **7.2. Review of the Findings**

According to the findings of the survey with ENOC members, the main areas of the impact of European IHRICs are law and policy, awareness of children's rights and implementing the CRC. An expert consultation (with Peter Newell) led to following up these priorities within the case study. Many IHRICs have not undergone any evaluation. Among a few institutions that have undergone external evaluation, the focus has not been on the impacts and details of these institutions' activities. Appreciative evaluation of the case study institutions with a critical realistic approach revealed details of CMOs of IHRICs, their success factors and strengths. Finally, effective activities of the institutions and the impacts they have made were identified by participants.

Although the UN has emphasised the dealing with complaints as crucial power and task for IHRICs (UNICEF, 2013) and providing children with complaint making has been mainly done by IHRICs and ICRI (Lansdown, 1997), this was ranked as the last priority by ENOC members. A few of them who put it as their first priority, stressed using the number of complaints as an indicator of their impact. This is while previous literature has indicated that number of individual complaints received or dealt with cannot necessarily show progress in terms of the institutions' performance (International Council on Human Rights Policy, 2005). IHRICs have also been warned not to put their main focus on complaints as it might turn them to bureaucratic institutions and complaint boxes (Hubeau, 2009; Waage, 2013). Instead, they have been advised that for effective implementation of the CRC, they need to move from individual advocacy to systemic advocacy and mainstreaming children's rights in policies (Myers, 2001; Thomas, 2007, 2011; Tobin, 2011).

Findings of the survey on children's participation show that they have not internalised the indivisibility of the 'three Ps' of children's rights (John, 2003), and pay less attention to

participation. It might also confirm literature that under the shadow of CRC's limited definition of child participation (Lansdown, 2010)(without considering GC12), most institutions still approach participation with a child voice discourse that was dominant in 1990s and early 2000s (Sinclair, 2004). Except for a few of ENOC members, they do not apply a model of child participation which can confirm the literature on the need for substantial local adaptation of participation frameworks by institutions. The findings of the survey come in line with UNICEF's (2013) on negative impact of history of oppressive regimes on child participation. Considering child participation as irrelevant to power (Cordero Arce, 2012) was also confirmed when ENOC members reported low awareness of child rights as the main challenge towards promoting child participation, and none of them mentioned power relations.

### **7.3. Reflections on the Case Study**

In this section, I will review the main findings about the CMOs of Lapsiasia and NICCY. These are based on my analysis of the documents and field work activities including the interviews and observations.

#### ***Lapsiasia***

Prior to my visit to their Office, I was aware that very few staff worked there, but at that time, they were even missing a lawyer, who has an essential role to play in IHRICs. In addition to that, one of their senior officers was new to the Office and the other officer was going on study leave soon. This made me think how difficult it will be for the Ombudsman to see her experienced staff leaving and new staff coming every now and then. In fact, the workload was so great that most people leave after a short time. One of the stakeholders reported that she had always wondered how those working at the Office do not commit suicide due to their hectic workload. The Ombudsman in Finland, after leaving the Office, told me that on reflection she should have campaigned with NGOs for more resources for the Office from early years.

The small scale of the Office leads to some consequences. One is the lack of systematic follow-up of the activities and statements of the Office, which makes its impacts un-evidenced and unsustainable. Although it might be better for an IHRIC to deal with children's individual complaints, considering the shortages of staff and funding for the Office in Finland, it is not recommended by me at the time being. Fortunately, there is a wealth of NGOs active in child-related issues and their relationship with the Office is very good. They are currently collaborating with the Office to make complaint-making procedures child-friendly. It is important that the Office be communicated with both these actors and the Parliamentary Ombudsman on the nature of the complaints in order to inform the authorities of the gaps in children's rights.

The other effect of the shortages of staff and resources is to make the Office ‘Ombuds-led’, as the Ombudsman has to be in charge of everything, especially the institution’s aims and strategies. She has also represented her own values of childhood in her speeches and publications about the institution. It is worth noting that she did not accept this point that was raised by two childhood experts in Finland. Another result of the Ombuds-led’ situation has been collaboration with the Evangelical Church as a key partner of the Ombudsman. I was told by stakeholders that this is mainly due to the Ombudsman’s personal religious ideas and connections. Although, according to some stakeholders and staff, most children and parents in Finland do not attend church, the church has been engaged in activities of the Office such as positive parenting. The Ombudsman disagreed with this point that was raised by my study’s childhood expert and social worker participants in Finland. She explained that 85% of Finns are members of Ev.Lut Church and pay church taxes and the church plays a role in child and family issues there. The Church has been reproducing ‘good’ child constructs and aims to make churches more ‘child-friendly’ and offer moral education for children and young people. However, according to a participant from the church, despite the rhetoric on ‘child-friendly’ churches, children do not have much real choice in their moral education, and the Church has been excluding LGBT (lesbian, gay, bisexual and transgender) young people. This suggests that too close a relationship may risk compromising the Ombudsman’s impartiality and commitment to all children’s rights. As religion tends to be about monologue, not dialogue, there seems to be some contradiction with Article 12 of the CRC. So, IHRICs should perhaps be careful in putting grand, sacred adults in front of children in their activities; this should apply in particular to the new Ombudsman for Children in Finland, whose background is in theology.

Overall, the Office has tried to listen to children’s voices mostly through small scale, online surveys and then transfer these results to decision-makers, while networking with other actors and struggling with low resources and resistance to children’s rights. There should be a reflection on how different children in difficult situations will be able to take part in such online surveys. It is a positive point that, when children from minorities and disabled youth have been asked for their input, these studies have been more face-to-face and in depth. With regard to the ‘Child Well-being Indicators’, it was not easy for me to find a good rationale for the Office’s involvement in this ‘WHO-like’<sup>10</sup> project. The 2014 annual report of the Ombudsman was mostly dedicated to this project as the biggest achievement of the Office and the Ombudsman herself. It was presented as final conclusion to the institution’s nine years of contribution to children’s lives. It is not clear why the Office, with its limited resources and staff, should spend so much of its time and budget on this project. It seems rather that such a big national project about children’s health should be undertaken by the Ministry of Health and Social Affairs. Also, considering the dominance of a child welfare approach in Finland, it is not certain that there will be any priorities given to

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<sup>10</sup> World Health Organisation’s projects

children's rights other than on issues of child health and well-being. The Ombusman did not agree with me and pointed out that one of Lapsiasia's tasks is to monitor the well being of children and the 'indicators' is a tool to do that, and the Office chose to take that as the other actors such as the Ministry of Health and Social Affairs were not willing to do that. I would argue that one of IHRICs' main tasks is to make the other actors, especially government to do what they should do for realising children's rights, not to take up what they are not willing to do.

Throughout my field work I learnt that, in Finland, children's rights are mostly a matter of following international trends, as they are a modern welfare state in a Nordic country. A child welfare culture is dominant there that assumes Finnish children's well-being is satisfactory, especially compared to children in other countries. So, the decision-makers do not see the need to allocate a reasonable budget for an independent Office responsible for improving children's rights there. In this context, it is not easy to talk about deficiencies and gaps in implementation of the CRC. This is particularly true due to its small population; if a child in a distant municipality is facing some difficulty, changing an entire law or policy may not seem necessary to decision-makers.

Despite all the awareness raising activities of the Office, welfare culture is still dominant in Finland: the titles of most institutions for children include the term 'welfare'; those advocating for child rights are asked why they do not talk about children's duties; and, more than five years after the establishment of the Ombudsman for Children, authorities have only permitted the teaching of human rights to school students and not the CRC, as there is seemingly a resistance to children's rights. Most recently, I was told that children were not involved in the process of recruiting and selection of the new Ombudsman, who has been reported by my research buddy to be focusing mostly on positive parenting.

When I started my interviews, I became disappointed that the participants, especially people from the Office, were not able to give me a list of the changes to law and policies. It might be because I was mostly looking for an impact, such as the amendment to the consumer policy and adding children as customers to the Act. However, I realised later that the Ombudsman was happy with legislation in Finland and had mostly worked on the implementation of the policies that did not seem satisfactory to her. Lapsiasia has mostly tried to change the mind-sets of decision-makers and has considered it more important than changes in law and policy. Although influencing the mindsets about children and their rights is an important task, impacting law and policy is important, as it can lead to incorporation of the CRC in legislation. It also raises awareness, results in systematic budgeting, assessments, research and coordination and helps in constructing children as rights holders. Then, when politicians are replaced by new ones, if changes have been made in law, policy and structures the Office will not have to spend time on changing their mindsets again.

## *NICCY*

I was told by the staff that NICCY left their previous location around two years ago. As the former Commissioner had mentioned, the previous building was colourful and had been designed by young people. A member of the Communications and Participation Team remembered that young people would just drop in to say hello (participation team) and one of the stakeholders said the previous office was in the city centre, was child-friendly and the building itself was 'constructing something useful for children's rights and NICCY there'. The staff said that the new place was not in the city centre and was not very attractive or accessible to children. When I visited their Office, my first impression of the new building next to a police station surrounded by barbed wire was to remember some border zones in sensitive areas such as Cyprus-Turkey or Palestine-Israel. After entering the building, there was a big reception desk and every visitor had to sign in there. It seemed hard for me to imagine a child with a problem would dare and bother to come to the reception and know exactly whom she would want to see at NICCY.

This is one of the instances that shows NICCY has not kept what was working for them through consulting and involving children and young people. It is one of the examples of how politics and economic conditions can limit and influence NICCY's achievements. This can be applied to NICCY's distinctive powers as well. As mentioned by some of the stakeholders in NGOs, NICCY should have valued what advocates did for its establishment and gained more for its mandate and powers. They should have campaigned and lobbied seriously to remove the barriers and limitations to their legal and investigation powers, when the political climate was appropriate for that. The fact that the Commissioner, a head of the team (a senior manager) and one of the members of the Youth Panel thought there would not be a need for NICCY to function if the institution completed its job is a matter of concern, too. Haydon (2006) also suggested that NICCY lobby for additional resources (powers), take cases in their own name or funding children to take cases and contribute to any legal proceedings which may have implications for children's rights and, thus, not just 'make recommendations'. NICCY has acted upon that advice. However, they have not yet had the occasion to initiate a formal investigation. After OFMDFM's advice in 2010, NICCY planned to focus more on legislative work (Corporate Plan 2011-4).

Throughout my field work, I encountered some very unhappy and critical stakeholders of NICCY. These participants were from the influential NGOs that had previously advocated for the establishment of NICCY or were from Government Departments. Their expectations of the Office after ten years had not been fulfilled and they could not identify any particular impacts. They were not impressed by NICCY's campaigns and participation work. They thought NICCY should be using its powers firmly for legal and investigative work, in addition to other projects that the public should be made aware of quickly.

Some of the criticism may be a little harsh. Account should be taken of the political and economic context of NI when examining NICCY's track record. Although the first Commissioner was appointed in a climate that was supportive of children's rights, he had little time to establish a way of working, and changes in the Assembly followed by the restoration of devolution, then economic recession and a change in UK Government, have changed the landscape significantly. It is unreasonable to expect NICCY to be a 'knight with a magic sword'.

As the first Commissioner reported, he did not even know how the Office should be run. Soon he got ill and passed away and, for nearly a year, there was an interim Commissioner. This situation made strategic decisions difficult. Then a new Commissioner with a different background started work while the devolution (2007) and recession (2008) began. (Thomas et al. (2010) also observed similar difficulties in the situation of the Children's Commissioner for Wales.) In addition to that, there have been changes in decision-makers' posts. Therefore, nearly half of the life of the Office has passed during significant structural changes. As the Head of Policy and Research describes this:

'There is a very thorough process of impacting policy and the 'barriers report' mentions the difficulties. Also when a Minister is changed, directions are changed and personnel are changed. In these last 3 years we have seen many changes in the people who lead policies related to children and young people.'

But even the long-term work on a children's rights bill and little progress on it showed that all of these expectations would not have been achieved quickly in the first few years. By working on awareness-raising and child voice and participation, NICCY has been preparing the situation for other lobbying and legislative and legal work.

As I observed, in NI the children's rights issue was not supposed to only improve the lives of children but, should have been a necessity rather than a choice for making peace and equity between Irish and British people. The concept of children's rights is itself problematic. In a context where human rights are sensitive and difficult, talking about and working on children's rights has become a real challenge. In NI, some might consider human rights only as an additional support for minorities and Catholics. So, the philosophy of human rights, citizenship and freedom of speech could remain untouched by these believers. On the other hand, some Protestants might resist human rights activities to avoid helping Catholics. Moreover, as children's rights, like human rights, have mainly originated from peace-making processes, any changes in this political arena impacts them. Additionally, in a context where adults are sometimes fragmented on the basis of previous fights and disagreements it will not be easy to talk about and attempt for cultural understanding, equality and inclusion for children. Projects aiming at integrating schools have shown this. It should be also taken into account that, in reality, the main customers of schools are considered to be parents and they may not be willing for their children to be taught different values from their own.

As I was told by the Head of Policy Team, the Commissioner in NI has found the change in law more effective, easier and faster than in policy but also less flexible. So, they prefer to amend the policies and lack the skills and experience to follow-up on their activities. As UNICEF (2013) points out, in regard to some of the characteristics of an IHRIC that is fit for children, NICCY has moved in a direction to raise awareness of children's rights, have clear strategic plans and communicate results. The Office could perhaps keep on going this way and practising them more. In recent years, NICCY has had a focus on SEN and education issues and the complaints regarding them. They should bear in mind that they must not become like an NGO whose work is solely SEN/EDU issues (this could be due to the influence of the Chief Executive as well, whose background is in education).

#### **7.4. Comparison of the Case Study Institutions**

Both of the case study institutions were established within the space of a few years and the Norway Office has been a role model for them (UNICEF, 2013: 233). However, differences in their contexts have resulted in different strategies taken and varying outcomes as aforementioned in the previous section.

Concerning the personality and background of the Commissioner, UNICEF (2013) admits that Commissioners' own drive and pro-activeness is important. The OFMDFM evaluation of NICCY (2010) implies that no particular background is an advantage for a Commissioner:

‘The previous experience of Commissioners in other jurisdictions has been outlined for comparative purposes. The Commissioners in other jurisdictions have a range of experience although predominately in the field of children and young people's services or policy. The English Commissioner was previously a Director of Children's Services for a Local Authority. The Welsh Commissioner's background is in youth justice and the NGO sector, similarly with the Scottish Commissioner who has a background working with young offenders and as a policy advisor in the NGO sector. In addition, the Children's Ombudsman in Republic of Ireland was previously a children's nurse’.

I found that the political backgrounds of the Commissioners and Ombudsmen had helped them in networking and lobbying. However, it could be suggested that they should have an overall view of children's rights especially in regard to the dynamics of adult-child and state-child power relations when they start working at IHRICs. Based on personal experience, strong characters, academics and founders of influential NGOs familiar with politics of children's rights were not happy with the impacts of the Office and thought that, if they were the Commissioner, they would have done much better.

Concerning the young people advisors, there has been a good start and some effective activities, but most of the interviewees said it needed more diversity. It is not about them being deliberately non-inclusive but is instead about some failing in practice, due to factors such as the structure and

recruiting process, which make it impossible for some silent children and those in difficult situations to take part. So, mostly the youth panel is comprised of middle-class children; Kiili (personal communication) suggests that advisory groups can become a 'playground for middle-class children'. IHRICs should try to find innovative and inclusive ways to involve all children in their work. They could usefully consult childhood experts and youth work NGOs, and perhaps commission campaigns from NGOs that have access to children in the care system, the justice system, in poverty, etc. They should also consider that invisible and silent children are often those most in need.

Considering all the above points, and after more than ten years of their establishment, it seems as if Lapsiasia and NICCY have found its appropriate path after passing through different stages and experiences despite facing many challenges, especially the particularities of the policy process for children and young people. The case study institutions have tried to pursue their first aim (implementation of the CRC) through research, hearing children's voices and transferring their needs to government, networking (acting as an umbrella for other parties working for children), lobbying top down and bottom up to impact law, policy and practice, raising awareness of children and the public and authorities' attitudes to their rights and implementing consultation/inquiry at government level. Both Lapsiasia and NICCY have had great changes to face; for example, newly appointed Ombudsman and Commissioner after the resignation of the Ombudsman in Finland early 2014 and the Commissioner's leave at the end of 2014.

This research has shown that the impact of IHRICs can be identified in a range, from a strong effect to an influence to even a footprint. I have identified what works well in the case study institutions and the features of their best practice as: children and young people's meaningful participation, innovation/ impact/ good timing (combination of reactivity/proactivity), application of distinctive powers of IHRICs, networking, making structures for children and young people participation and positive ethos (hope and appreciation). It could be concluded that IHRICs have acted well in transmitting children's voices to decision-makers but, in order to make their impact on law and policy more effective and sustainable, there should be an on-going dialogue between the state and children.

My findings confirmed the significant role of context on interpretation and implementation of the CRC (Clucas, 2003; Williams, 2007), the work of IHRICs and their evaluation. As previous literature had shown, I found that effective impact on children's rights needs planning, awareness raising, networking with national and international child actors, research, policy work and constant evaluation (Kaufman and Rizzini, 2009). All these need flexibility, creativity and hard work (Miljeteig-Olssen, 1990; Shier, 2001; Theis, 2010; Waage, 2013) to be contextualised and as a matter of all these, there is no unique/best way in realizing children's rights (Lundy et al. 2012).

The literature had emphasised developing indicators for impact evaluation of IHRICs, focus on their macro activities and communicating the evaluation with their funders in an honest way (The International Council on Human Rights Policy, 2005, 2012). However, my findings showed indicators are not a must for evaluation, and they cannot be a response to differences of context and dynamic changes in different IHRICs. I also observed that micro narratives can prove to be really helpful in impact evaluation and they should not be ignored. After experiencing angry and critical stakeholders of my case study institutions who were representatives of government, I am not sure that an honest report on evaluating them can be of help for IHRICs.

My findings showed that under-resourcing is an obstacle met by most ENOC members and as confirmed by literature affects their performance and effective implementation of the CRC (Doek, 2008; Byrne and Lundy, 2013) e.g. limits their ability in dealing with individual complaints and limits their independence. My case study also showed that labelling IHRICs simply as dependent or independent (Gran and Patterson, 2005) may not be authentic. My research showed that the most significant role of IHRICs has been raising awareness as changing the mindsets on children's rights has been their major challenge and then generating political will (Doek, 2008).

### **7.5. An Evaluation Template**

I found that IHRICs' projects are mostly interdependent but, to evaluate their impact the best way seems to isolate them. However, due to the time-consuming features of the changes in law, policy and practice, evaluation should be performed in ongoing summative and formative ways. I also learned that projects remain unfinished without publicising and following up. Moreover, the best possible answer to one of the main challenges faced by IHRICs when evaluating their impact - isolating IHRICs' impact from other actors - seems to be IHRICs' focus on applying their unique powers to their activities. This will enable them to identify their effective projects quickly, such as the Care Tour in Finland or SLT in NI (see 6.4.3).

I learnt that, most of the time, projects done by IHRICs for children take a long time. Therefore, in reality they are performed in more than one phase. Two main crucial elements (usually) missing in the case study institutions' work are 'publicising' and 'follow up', as they do not systematically follow up on their statements and the impact of their projects on law, policy and practice. This is sometimes done informally and most of the time, follow-ups are not recorded or documented. The case study institutions have also not publicised their achievements effectively. Therefore, their stakeholders, even in government or partner NGOs, are not greatly aware of their impact. I argue that IHRICs' work will not have a concrete impact if they are not followed up and publicised. That is why I included these actions in the evaluation template. I have therefore designed an evaluation template (see Figure.8) in which immediate, medium and long-term impacts (Sayer, 2000) are reckonable. This is inspired in part by the following:

- 1) Cutt and Murray (2000)

- 2) Office of the Children's Commissioner for England, Business Plan (2011-2)
- 3) Dunford (2010)
- 4) International Council on Human Rights (2005) (recommended to England OCO by UNICEF)

The template is designed to be used in systematic planning, performing, documenting, evaluating and reporting the projects and activities of my case study institutions. In this template, institutions are recommended to evaluate their impact by going through the progress of their individual projects instead of offering broad and vague explanations about pursuing their objectives in the form of tables or a few paragraphs. It is designed to help the institutions to document their achievements in order to show their impact to the authorities, especially those who question their effectiveness and existence.

Project/Activity Name	
Aim	To Influence Law, Policy and Practice
	See the Guideline
Justification & Planning	See the Guideline
Input	Research Networking CYP Participant
Output	Report Campaign Take the case to the court Laws Reviewed Trainings & Workshops
Outcome	Positive reaction of decision makers Positive contacts with the office Public support & attention Meetings arranged with relevant politicians Agreement of the working group to inform the Parliament Positive promises of politicians Identification of gaps in law, policy and practice
Publicise	Who was informed about the project and its achievements among the stakeholders and how?  What's the evidence?
Impact	See the Guideline
Aim	To Continue the Project OR Follow Up the Implementation?
Plan	What exactly should be done for the follow up? Who should do what for the follow up? Who should be contacted? Are any additional inputs needed?
Input	
Output	
Outcome	
Publicise	
Impact	
Second Phase (From dd/mm/yy to dd/mm/yy)	
Follow Up	

Figure 8. Evaluation Template

As illustrated in Figure 8, the template intends to evaluate the individual project/activities of IHRICs against their aim, which is to influence law, policy and practice. There are some questions that should be answered in order *to justify and plan* the project/activity. These are presented in the guidelines as the following:

- Why should this project/activity be conducted?
- Were the youth panel advisors consulted and were their views taken into account regarding the *priority* of the project/activity? How?
- Were the youth panel advisors consulted and were their views taken into account regarding the *planning* of the project/activity? How?
- Was the adult advisory board consulted and were their views taken into account regarding the *priority* of the project/activity? How?
- Was the adult advisory board consulted and were their views taken into account regarding the *planning* of the project/activity? How?
- Which rights of children is the project/activity targeting?
- Which law is the project/activity targeting?
- Which policy is the project/activity targeting?
- Which practice is the project/activity targeting?
- What kind of change is the project/activity going to make in the targeted law?
- What kind of change is the project/activity going to make in the targeted policy?
- What kind of change is the project/activity going to make in the targeted practice?
- What will be the impact of that change?

The template is also applicable to individual complaints where those have the potential to lead to changes beyond the individual child:

- What change is the project/activity going to make to the individual child's life?
- Why should this case be supported by the Office?
- What potential gap can dealing with this case identify in law, policy and practice?

For the first phase of the project/activity, five columns should be filled in; the *inputs* of an institution for its project/activity could be pieces of research, networking with partners, participating children and young people or individual cases. *Outputs* could be reports, campaigns, reviewing laws, training and taking the case to court. *Outcomes* of IHRICs when trying to influence law, policy and practice could be the positive reactions of decision-makers, and the identification of gaps in law and policy. Information in the *publicise* column should show the formal processes and the staff in charge of publicising the activity and its achievements. With regards to the *impact* of the project/activity the following questions should be answered:

- Which rights of children were impacted?
- What is the evidence of that impact?

- What exact positive change happened?
- What is the evidence of that positive change?
- Which law was changed?
- What is the evidence of that change?
- Which policy was changed?
- What is the evidence of that change?
- Which practice was changed?
- What is the evidence of that change?
- What is the impact of the change made by the project?
- What is the evidence of that impact?
- How well the project went? Why?
- Whose awareness was raised?
- What is the evidence of the increase in awareness of children's rights?
- Was Children and Young People's participation improved?
- What is the evidence of that improvement in children and young people participation?
- Were the institution's recommendations accepted, rejected, adapted or ignored?
- What is the evidence of that?
- Did the government follow the advice of the Office?
- What is the evidence of that?
- Was any action taken as a result of that?
- What is the evidence of that?
- Was the action taken effective?
- What is the evidence of that?

For the next phases of the project/activity, the aim can be considered as continuing the task or following up its implementation. If it is to be the follow-up, a formal and systematic procedure should be planned. The rest of the columns of this phase can be completed in the same manner as the first phase.

By changing the questions in the guideline, the template can be used to evaluate other impacts of the institutions, e.g. implementing the CRC. I have designed the template on a combination of AI of IHRICs and their CMOs. Although the template is to be completed for individual activities of IHRICs, reflecting annually on all of the completed templates for the projects that were run for a specific area of impact can reveal details on the AI and CMOs of the institutions. By doing so, the institutions can find out about the contextual factors and their mechanisms that are working well for them and lead to their effective outcomes.

After I designed the first draft and amended it according to my supervisory team's comments, I sent it to some IHRIC experts. Trond Waage (former Ombudsman for Children in Norway), Peter Newell (ENOC expert) and Vanessa Sedletzki (Child Rights Specialist and former UNICEF

researcher) sent back their feedback and I amended the template according to their comments. Waage's feedback and concerns were:

I support the need of searching for indicators/parameters to evaluate the Ombuds work since their impact and effectiveness are and should be questioned. At the same time, hunting for the indicators may regulate and obstruct the added value an Ombud must have to governments, NGOs and the political establishments, in always searching for the short-and long-term alternatives, to hold a futuristic perspective and to perform in an innovative, creative, flexible and non-bureaucratic way.

Waage was concerned that as with children's rights impact assessments, evaluation models/indicators might take the form of technical exercises such as with reporting forms and tick boxes. This may turn the IHRICs into reactive accountants and protectors of current situations. He found my template to be a good '*coach and guideline*' for IHRICs on how to evaluate their impact.

The case study institutions' feedback on the template was as follows:

NICCY completed the template for the projects I had requested. The result was satisfactory for me, as the template let them summarise the important details of the activity in only a few sentences. They described the template's strengths as 'generally useful, good reflective tool/ useful to record impact to a certain extent/ helps to analyse different stages'. The template's weaknesses were mentioned as 'difficult to complete/ evaluating policy advocacy work is difficult and the model would have to be developed in house'.

Lapsiasia was only able to provide me with a general feedback since the former Ombudsman had just left the Office. She found the template as '*helpful and applicable by the Office*' and thought it would help to '*keep your path to your objectives and reflect on your reasons and achievements*'. She suggested some minor amendments: to rename the 'justification' part to 'planning phase' and also add 'how to inform key stakeholders about ongoing projects' to the follow up part.

On reflection on the template I have designed, I should admit that it is not a perfect tool for an impact evaluation of IHRICs, I believe it is completely flexible and ready to be adopted and developed by IHRICs at least across Europe as these institutions have had the Norway Office as their model, their main framework is the CRC, their general duties are determined by the UNCCRC and the survey I conducted showed that their main areas of impact are mostly common. The evaluation template is intended as a *start* in the process of developing tools for the impact evaluation of IHRICs.

Concerning evaluation indicators, it should be noted that promising the design of 'indicators' was in the advertisement of the scholarship I was awarded. So, this was originally Professor Thomas's

idea, that an impact evaluation of IHRICs should apply indicators. I tried to pursue this promise and additionally thought that because IHRICs deal with children's rights, children's rights indicators might also prove helpful for evaluating them. Indeed, even after the survey and prior to entering the fieldwork (case study institutions) my intention was to design those indicators. But during the case study, I learnt that this was not possible, at least not for this project, with all of its time and funding limitations. However on reflection, I believe that IHRICs themselves can develop some indicators according to their CMOs and could also adopt some children's rights indicators for their impact evaluation with the use of the proposed evaluation template.

## **CHAPTER 8: CONCLUSION**

### **8.1. What Has Been Learned**

This research has shown that IHRICs are vulnerable institutions despite their powers and massive potential to improve the rights of children. One of the main reasons for their vulnerability is child-adult power relations and that they are ‘champions’ of children - who are not considered competent citizens in most of the contexts. These institutions’ independence is also threatened by political and economic factors. They are also considerably dependent on their partners in order to make an impact.

Children’s Ombudsmen and Commissioners face huge tasks and expectations, which make prioritising their aims complex. They become so busy engaging in reactive and proactive activities that they forget to take a systematic approach to their objectives and think about their impacts and achievements.

Despite similarities of IHRICs there are significant differences between them due to various contextual factors. Therefore, finding the best ways to evaluate them demands familiarity with their contexts, and spending time and reflection within the institutions themselves.

IHRICs’ most challenging and remarkable impacts have been on changing the mindsets about children’s rights, especially in terms of improving children’s participation in addition to influencing law, policy and practices regarding children. They have had to take a long path to have children seen and heard by decision-makers.

At their start, IHRICs were not sure about what to do and how to function and constantly faced various difficulties. However, they have gradually learned how to produce best practices with significant impacts through applying their unique powers, innovation, lobbying top down and bottom up, implementing a balanced ratio of reactivity/proactivity and facilitating child-adult conversations.

### **8.2. Dialogue and Mutual Empowerment**

The main product of this research, addressing the central research question, is the proposed template for evaluating the impact of activities of IHRICs (see 7.5). A second product is the conception of the IHRIC’s principal role as an ‘interlocutor’ between children and the State. In this section I will develop this idea, which has emerged from the research and from the experience of undertaking the research, a little further.

As aforementioned, IHRICs function by bridging governments and children. The magnitude of their task requires what a former Ombudsman for Children (Waage, 2014 personal communication) calls ‘monitoring 360 degrees of childhood’. For instance, the Norwegian

ombudsman is given a wide-ranging brief to 'promote the interests of children vis-à-vis public and private authorities and to follow up the development of conditions under which children grow up'; the Swedish Ombudsman has a brief to 'assert the needs, rights and interests of children and young persons and to ensure that Sweden lives up to its commitments under the United Nations Convention on the Rights of the Child'; and the Ombudsman for Icelandic Children is given the task of 'improving the children's lot, as well as safeguarding their interests, needs and rights' (Lansdown, 1997). Although the UNCCRC has initiated and supported the establishment and work of IHRICs, it has not helped them in narrowing down their enormous duties into some practical objectives.

As IHRICs' main framework has been the CRC, and their main supporter the UNCCRC, in most cases the sociology of children's rights and considering adult/child power relations has been missing from their perspectives while they have tried to perform in a real world where there are some particularities of the policy process for children and young people, such as:

'There are significant time lags between the planning and implementation stages of strategies or policies relevant to children and young people. Challenges to effective government delivery (of policy) may be exacerbated when children and young people's lives are the subject of policy development and implementation, with potentially negative implications for both short and long-term outcomes and for subsequent stages of the life course. These concerns are further accentuated when child-rights discourse is added into the mix. The intersection between childhood and rights is an added complexity with the elevation of children and young people to a 'rights status' appearing to generate fears of 'new' ways of being and doing in spite of the international obligations that already exist. Effective implementation of child rights does not exist in a vacuum, but requires active facilitation by state actors.' (Byrne and Lundy, 2013b)

These facts make definitions and the areas of their impact numerous while increasing the complexity of the prioritisation of their actions. IHRICs should take the CRC only as a 'convenient benchmark' and plan to go beyond it in order to have significant impact on children's everyday lives and the social construction of childhood.

This research has shown that it takes time for authorities to gain faith in children's competencies. Also, there are myths about children's rights, e.g. children's situations are very good, they do not know what is good for them, respecting children's rights puts parents' rights and social order at risk etc. IHRICs have constantly attempted to raise awareness about these myths but, when politicians leave their posts, their substitutes will have the same clichés in their minds about children again. Therefore, it is not efficient to work on campaigning, raising awareness and child

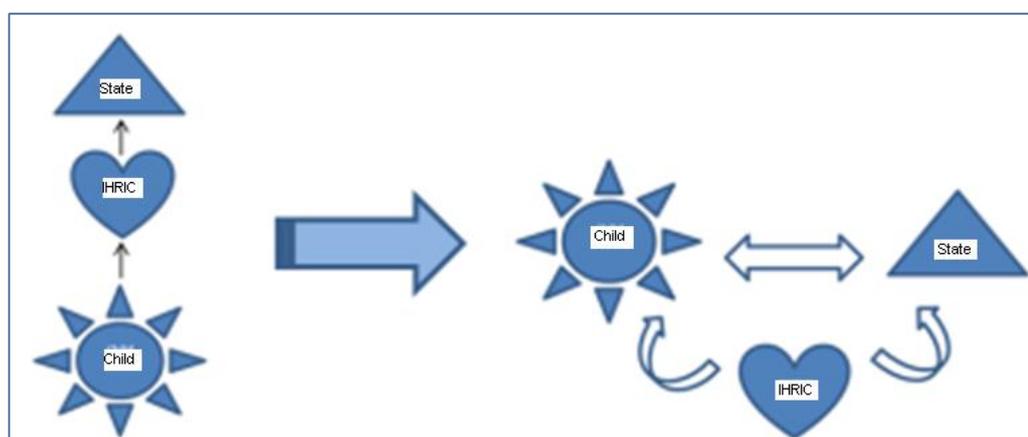
participation, for some years and then start legislative work. These three principles should be planned and executed alongside each other. Especially in countries where the context has been ready for some time due to discussions on the importance of childhood and children's welfare and rights debates. With regards to hearing children's voices, a further step is listening to children. IHRICs have acted well in transmitting children's voices to decision-makers but, due to the lack of a follow up, going further to the next step (taking children seriously) has taken a great deal of time. Follow up helps in freshening politicians' memories regarding children's voices. I suggest that, in the follow up phase, IHRICs can commission campaigns to NGOs and use the experiences and opportunities provided by them. In 'taking children seriously', lobbying for impacting law, policy and practice is essential and should be conducted alongside raising awareness and improving children's participation.

Usually after children are taken seriously, they will be more able to participate in matters concerning them. But most of the time, neither the child nor the State knows how this participation should be done. Offices have learnt after some years that mere emphasis on children's participation is not useful enough and have started making structures such as municipality and school councils. They have also tried to amend laws to make these structures mandatory in society. But up to now, two factors have been obstacles in the child participation path: one has been the way children have participated through their not so inclusive youth panels. The other has been a lack of skills within authorities for listening to and engaging with children. In their best practices, Lapsiasia and NICCY have tried to train decision-makers on how to listen to children, what to wear and how to prepare the meeting space. The Offices have also trained their young advisors and given them the confidence to communicate their needs and ideas. Also, by these organisations using an appreciative approach (participation awards) and applying an ethos of hope (care tour) they have started to create a friendly relationship between State and child, which is more promising than a State vs. child situation in which the adult-child power relationship is competitive (see 6.4.3).

As aforementioned in chapter 2 (see 2.6 on *Participation Models*), Lundy (2007) argues that children must be given the opportunity to express a view, and must be facilitated to express their views, which must be listened to and acted upon, as appropriate, and they should also be given the chance to follow up on the impact of their voices. This is what IHRICs have been aiming to do. In addition to that, in their best practices they have tried to enable adults to listen to children, create an on-going conversation with them and 'give weight to their opinions', as children feel that 'adults don't listen to them when they think differently' and 'they should be listened to when something is being prepared and not when the matter is already decided' (Finnish Children in EU Policy Review of Child Participation, 2011). That is why I believe there should be an on-going facilitated dialogue between the State and children, who are empowered by IHRICs to take part.

This dialogue will mutually empower (see 2.6 on *Impac of Participation*) the decision-makers and children.

I agree with Habermas (1981, cited in Beke 2009: 128) (see 2.9.1) that ‘Ombudsmen can direct the quality of the dialogue itself between the government and its citizens, and shape it through a customer-friendly and communicative approach. In this way, aspects of a democracy of deliberation and participation can gain more attention as part of the democratic process’ (Habermas, 1981, cited in Beke 2009: 128). Habermas is talking about Ombudsmen for adults of course. But, there is no reason why this cannot be generalised to children as well. And the activities of the case study institutions that were identified as their best practices have shown that ‘directing the quality of the dialogue’ suits IHRICs the best. That is why it could be suggested that, while IHRICs bridge children and States, it would be more efficient for them to be a child-State dialogue facilitator (interlocutor) instead of merely transferring children’s voices to States (see Figure 9) while pushing governments into fulfilment of their Article 42 obligations (Newell, personal communication).



**Figure 9.** IHRICs and Mutual Empowerment of Children and State

In this way, IHRICs will not be involved only in limited children’s issues like the way NICCY has been recently working on SEN/EDU individual cases. Through mutual empowerment, both the State and children will learn to engage in dialogue on their issues. This model will help children, IHRICs and States make a policy network<sup>11</sup> in which children are the ‘core insiders’<sup>12</sup>, not outsiders. As Tisdall and Davis (2004) discuss, the State and children should be able to persuade each other in regard to the follow up of activities and progress in relation to the

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<sup>11</sup> Policy networks are a means of categorising the relationships that exist between groups and the government. Policy networks occur when there is an exchange of information between groups and government (or between different groups or parts of the government and this exchange of information leads to the recognition that a group has an interest in a certain policy area (Smith, 1997 cited in Tisdall and Davis, 2004: 132).

<sup>12</sup> Core insiders are able to bargain and exchange with policy makers over a range of issues (Maloney et al. 1994, cited in Tisdall and Davis 2004: 133).

enjoyment of children's rights. I propose that mutual empowerment can help children to learn about the practicalities of change in law and policy, whereby they can become able to persuade and be persuaded by the State in their dialogues. In this way, they may be less likely to be disappointed if their wants are not responded to quickly.

Mutual empowerment may also increase children's social and cultural capital (Bourdieu 1992, cited in Thomas 2009), for example with regards to their communication skills. Moreover, such mutual empowerment can increase 'the potential for children's participation to be political, to challenge and insist on change' and question the situation of children as 'secondary citizens' (Tisdall and Bell, 2006: 116). Mutual empowerment (for example, participation awards in NI or municipality reform in Finland, see 6.4.3) seems to be capable of building an appreciative relationship between politicians and children. In a face-to-face encounter, both parties will learn how to engage in a conversation and talk about their needs and solutions, about what can be done and what cannot. Therefore, they will learn to listen to each other and transform through participation (see 2.6 on *Impact of Participation*). In this way, adults will not be concerned about losing their power, and the child vs. State relationship - that has acted as an obstacle to the implementation of children's rights for a long time - will not be an issue.

Reflecting on the stakeholders' influence in the ENOC survey (see 4.2.1) and the places of government and children contained therein, at first glance one might think these two places should replace each other, but both of them have almost the same importance to IHRICs. So, mutual empowerment will also help in putting both the government and children in the first ranking of influence on IHRICs' work.

As I have pointed to the interdependency of children's and adults' rights in chapter 2, I am optimistic that mutual empowerment will help in realising their human rights, and will add sustainability to the impacts of IHRICs if it is incorporated in the Offices' strategies and done systematically. In this way, IHRICs would be capable of going beyond the CRC and can facilitate children's citizenship in the future. I believe that mutual empowerment will start a child-State dialogue, which will make it possible for children to be recognised as citizens.

### **8.3. Contributions and Implications of the Thesis**

Although evaluating the impact of IHRICs is in its early stages of development, my thesis has taken it a few steps further. I have faced all of the challenges of evaluating IHRICs that were mentioned in the literature and through my findings I have shown that the legal, political, social, economic and cultural contexts of institutions are very different despite their similar objectives. This means that the transformation of childhood in them is different, and their practical aims, their choices of priorities, their realistic possibilities of impact are also different. Therefore, their impact evaluation has to be highly contextual. Unlike the previous single case studies on evaluating IHRICs that focused on macro narratives of success, I compared institutions in their

micro and macro narratives and while appreciating their achievements and strengths, I also kept my critical approach to evaluating them.

I have shown that an emancipatory approach to children's rights can be applied in implementing the CRC and even going beyond that, especially with regards to children's meaningful participation. I have shown that an evaluation as a culture of learning and reflecting can help the institutions improve their work and make them more self-conscious about their work and context. By combining critical realism with AI in order to evaluate the impact of rights-based institutions, as well as identifying the impacts, best practices and strengths of IHRICs, the project has contributed to research and knowledge, and I have shown that evaluation as a judgmental and bureaucratic task and search for standard indicators may be mistaken.

### *Implications for Policy*

This research recommends that the UNCCRC should consider systematic follow up of its Concluding Observations and ensure its General Comments and IHRICs' recommendations are taken into account by States. The Committee should ask States to allocate resources for IHRICs and avoid cutting their budgets.

UNCCRC should work on clarifying 'conceptual anomalies' of the CRC through its General Comments and clarify the ambiguity of IHRICs' duties. They should also revise the CRC's reporting and ask States to submit evaluation reports of IHRICs to the UNCCRC, too. It is also suggested that the UN should consider asking the UNCCRC to evaluate its impact, and report it.

A final recommendation would be to create a centre which recruits former Commissioners and Ombudsmen in addition to experienced researchers in the field of IHRICs, ENOC and children's rights in order to help the new Commissioners/Ombudsmen get a good start. The Ombudsman for Children in Finland found it interesting and helpful and suggested that the Council of Europe could fund ENOC for doing so.

The research suggests that States should consider the following actions:

- 1) Take IHRICs' recommendations seriously and ensure the follow up of them.
- 2) Allocate sufficient resources for IHRICs and avoid budget cuts.
- 3) Have child champions in government departments and child-friendly Members of Parliament.
- 4) Improve co-ordination and administration of children and family services.
- 5) Adequate legislation for IHRICs' mandates and independence.
- 6) Engage in dialogue with children facilitated by IHRICs.

- 7) Strengthen the status of the CRC by incorporating it into national law or at least pass child rights Bill.
- 8) Timely consultation with institutions, before making decisions and passing laws, and inviting them in their Parliamentary/Ministerial working groups.
- 9) Ask for reflective evaluation of IHRICs instead of putting pressure on them to present tick boxed bureaucratic evaluations.

### ***Implications for Practice***

The study has contributed to practice through the evaluation template which the case study institutions have indicated could be helpful to them. It has also introduced a conception of IHRICs' principal role as interlocutors between children and the state as a new theory on children's participation and their role in policy-making.

The following practical suggestions for the work of IHRICs are drawn from the research:

One of the main points where IHRICs should impact law is on their institutions' legislation to strengthen their powers and resources. This will lead to removing many barriers to their effective functioning. Instead of trying to isolate their impact from other actors, IHRICs should use their unique powers and characteristics. Then, they will easily find out where they have been significantly influential, e.g. care tour in Finland (see 6.4.3.1) and SLT in NI (see 6.4.3.2).

IHRICs should work on finding inclusive and creative ways so all children can participate, commissioning campaigns to NGOs and more children and young people participative research to academies on their everyday life matters are recommended.

The institutions should consider the CRC's emphasis on indivisibility of children's rights, especially in setting their priorities and take into account CRC's stress of interdependency of human rights in tackling social problems such as child poverty and corporal punishment, avoid child-adult dichotomy and provide shared spaces for dialogue and action for children and adults. IHRICs should add a fourth 'P' (power) to the traditional 'three P's of the CRC to further children's participation when analysing/planning/evaluating their activities. Applying Kirby et al. (2004) suggestion (see 2.6 on Impact of participation) for assessing their impact of children's participation might prove helpful in doing so. Commissioners and Ombudsmen should be aware of how they involve their own childhood or ideals of childhood in their work.

Cultural politics of childhood and the sociology of children's rights should play an important role in defining IHRICs' aims and strategies and action plans, and a combination of a children's rights background with a political background for managing the IHRICs is suggested. For instance, a Commissioner or Ombudsman with a political background and good contacts with decision-makers could have a CEO or deputy who is an expert in child rights and vice versa.

### ***Implications for Research***

The following ideas for further research on IHRICs are suggested:

- 1) Search for effective ways of raising awareness of children on the existence and work of IHRICs.
- 2) Longitudinal study on the impact of IHRICs.
- 3) How/whether Commissioners/Ombudsmen represent their own childhood in their work.
- 4) Research on NICCY and Wales Commissioner for Children and compare it to their previous evaluations to see the difference a background from academic childhood studies (Wales) and NGO (NICCY) for the Commissioners can make.
- 5) Research on the contexts such as NSW, Australia where there are separate institutions for child participation (Advocate for Children and Young People), individual complaints and child protection (Children's Guardian) and systemic advocacy (National Children's Commissioner) to see if that works better than having a single institution with huge tasks.

### **8.4. Impact and Dissemination**

The research has had the following direct impacts on the work of IHRICs:

- 1) Lapsiasa has mentioned this evaluation in its Action Plan 2013 (Lapsiasa, 2013b)
- 2) NICCY has mentioned this research in its performance management report (2013)
- 3) Video conferencing with advisory board of Finland (see Appendix 17 for the list of attendees). Feedback was very positive. Delegates from the Finnish Society for Childhood Studies and Regional State commented on the report. They admitted the issue of lack of baseline data to compare the situation before and after the Office, approved of the evaluation template and hoped it would be applied by IHRICs. They also stressed the importance of comparison between case study institutions
- 4) Feedback from the former Ombudsman in Finland on the evaluation template
- 5) Completion of the template and feedback by NICCY SMT
- 6) Italian ICRI (The National Authority for Children and Adolescents) requested for the template to be applied by their Office
- 7) Chief policy advisor to UNICEF Canada suggested the template could be used by their Offices in order for generating more comments

Findings of the research have been shared with children's rights experts and ENOC members at the Centre for Study of Childhood and Youth 4th International Conference 'Celebrating Childhood Diversity' (Sheffield, 2011), the 1st International Symposium of PhD Students Working on Children's Rights (Liverpool, 2012), ENOC 17th Annual conference (Brussels,

2013) and the International Conference '25 Years CRC' (Leiden, 2014). Through these presentations at international events, IHRICs and their contribution to the realisation of children's rights have been introduced and publicised. Also, the necessity of researching them and the recommended solutions in facing the challenges of evaluating their impact have been discussed with the audience. Additionally, two journal articles are in preparation.

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## **APPENDICES**

### **Appendix 1: The Paris Principles**<sup>13</sup>

#### **Principles relating to the Status of National Institutions**

**Adopted by General Assembly resolution 48/134 of 20 December 1993**

#### **Competence and responsibilities**

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
  - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
    - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
    - (ii) Any situation of violation of human rights which it decides to take up;
    - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
    - (iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

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<sup>13</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

- (b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;
- (c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;
- (d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;
- (e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights;
- (f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;
- (g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

### **Composition and guarantees of independence and pluralism**

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

- (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;
- (b) Trends in philosophical or religious thought;
- (c) Universities and qualified experts;
- (d) Parliament;
- (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

### **Methods of operation**

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner,

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;

(c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;

(d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly concerned;

(e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

(f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

### **Additional principles concerning the status of commissions with quasi-jurisdictional competence**

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

## **Appendix 2: Informal Survey on CYP's Awareness of IHRICs**

Here are the details of the mentioned small scale survey:

<b>Respondents</b>	<b>Number</b>	<b>Age Group</b>	<b>Average Age</b>	<b>From England</b>	<b>From UK</b>
Girls	10	12-18	15	5	5
Boys	12	8-18	12	6	6
<b>Total</b>	<b>22</b>	<b>8-18</b>	<b>13.5</b>	<b>11</b>	<b>11</b>

### **What did the questionnaire ask**

- Does your country have a Commissioner for Children & Young People?
- What does a Commissioner for Children and Young People do?
- What would you like her/him to do for you?
- What is the best thing she/he has done for children & young People?

### **How was the respondents' awareness of their Commissioners' existence and duties**

<b>Respondents' Awareness Of Their Commissioners</b>	<b>Not At All</b>	<b>To Some Extent</b>	<b>Familiar</b>
	<b>42%</b>	<b>25%</b>	<b>33%</b>

**Not At All:** Children and young people were neither aware of the existence of a children's Commissioner in their country nor the duties a Commissioner for children.

**To some extent:** Children and young people were aware of the duties of a Commissioner for children, but did not know if their country had one.

**Familiar:** Children and young people were aware of the existence of a children's Commissioner in their country and her/his duties.

### **Appendix 3: Survey Covering Letter**



School of Social Work  
Room 301, Harrington Building  
University of Central Lancashire  
Preston, Lancashire  
PR1 2HE, United Kingdom

8<sup>th</sup> May 2012

Dear ENOC member

I am contacting you regarding a survey which forms part of a research project on evaluating the impact of independent human rights institutions for children. You will already have been contacted by Professor Nigel Thomas about this research. The research is looking at how to understand and evaluate the impact of such institutions, using the European institutions as the best developed example globally. We are aiming to do this using a combination of a broad-based survey of ENOC members and an in-depth case study of selected institutions.

We have now obtained ethical approval for the first phase of the research, namely the survey, which we are now conducting with all ENOC members. Participation is completely voluntary, but we sincerely hope that every member will respond. By returning the questionnaire, you will be indicating your consent for your responses to be used in the research or published in the future. However, you can indicate if there are any answers which you would prefer to be kept confidential, or if there are questions which you prefer not to answer at all.

Completing the questionnaire should not take more than 20-30 minutes of your time. Your collaboration is indeed appreciated. I shall be grateful if you could respond within two weeks if possible. Please send your completed questionnaire to [simanian@uclan.ac.uk](mailto:simanian@uclan.ac.uk) or post to the address at the end of this page. Do not hesitate to contact me if you have any queries.

If you are interested to participate in the second phase of this study, and so contribute to a better understanding of the impact of independent children's rights institutions on children's lives, policy, law and public attitudes, please say so in response to Question 10.

Yours sincerely,

Sara Imanian  
[simanian@uclan.ac.uk](mailto:simanian@uclan.ac.uk)

#### **Appendix 4: Appendix 3: Survey Covering Letter in French**



School of Social Work  
Room 301, Harrington Building  
University of Central Lancashire  
Preston, Lancashire  
PR1 2HE, United Kingdom

Le 20 Mai 2012

Cher Membre d' ENOC

Nous reprenons contact avec vous au sujet d'une enquête faisant partie d'un projet de recherche consacrée à l'évaluation de l'impact des institutions indépendantes des droits de l'homme pour les enfants. Le Professeur Nigel Thomas vous a déjà informé(e) de ce projet de recherche, destiné à favoriser la compréhension et l'évaluation de l'impact de telles institutions à partir de la référence la plus globalement développée aujourd'hui, celle des institutions en Europe. Nous visons, pour ce faire, à relier un large sondage auprès des adhérents d'ENOC à l'étude de cas approfondie de certaines institutions.

Comme suite à l'approbation éthique, nous sommes en mesure d'ouvrir la première phase de la recherche, c'est à dire le sondage, et de joindre l'ensemble des adhérents de l'ENOC. Leur participation est entièrement volontaire, mais nous espérons vivement que chaque membre voudra bien s'investir dans le projet. Dans ce cas, en nous retournant le questionnaire ci-joint, vous donnez votre accord pour que vos réponses puissent, ultérieurement, être utilisées ou publiées dans la recherche. Toutefois, vous pouvez indiquer les réponses que vous préférez garder confidentielles ou celles auxquelles vous ne souhaitez pas répondre.

Compléter le questionnaire ne devant pas occuper plus de 20 à 30 minutes de votre temps, votre collaboration est sincèrement souhaitée et nous vous serions reconnaissants si vous pouviez, autant que possible, nous répondre sous deux semaines. Merci, donc, de bien vouloir nous retourner le questionnaire complété à [simanian@uclan.ac.uk](mailto:simanian@uclan.ac.uk), ou de le poster à l'adresse figurant ci-dessous en bas de page. Enfin, n'hésitez pas à me contacter si vous vous posez des questions.

Dans le cas où vous souhaiteriez participer à la deuxième phase de cette étude, contribuant ainsi à une meilleure compréhension de l'impact des institutions indépendantes de défense des droits des enfants sur la vie, politique, droit et attitudes du public par rapport aux enfants, veuillez le préciser en réponse à la Question 10.

Cordialement,

Sara Imanian

[simanian@uclan.ac.uk](mailto:simanian@uclan.ac.uk)

## Appendix 5: Questionnaire and Consent

### University of Central Lancashire School of Social Work

### Evaluating the Impact of Independent Human Rights Institutions for Children

#### Survey of ENOC members 2012

Name of country or region	
Name of institution	
Full or associate member	
Person completing survey	
Position in organisation	

#### 1) What are your organisation's aims and top priorities?

Please select from the following and put in order of importance (using 1 for the most important, and so on)

To promote full implementation of the CRC	
To influence law, policy and practice	
To promote a higher priority for children and more positive public attitudes	
To encourage government to give proper respect to children's views	
To promote awareness of children's rights among children and adults	
To monitor and promote children's access to advocacy and complaints processes	
To promote the rights of particular groups of disadvantaged children	
Any other comments:	

#### 2) a) What or who assists you in achieving your goals?

--

**b) What or who are the main obstacles to achieving your goals?**

--

**3) a) Do you find the CRC adequate as a framework for guiding your work?**

Yes	
No	
Any other comments:	

**b) What other frameworks, if any, do you use?**

--

**4) How much influence do each of the following stakeholders have on your work, and how much influence do you think they should have?**

**Please put in order, using 1 for the most influential, and so on.**

<b>Stakeholders</b>	<b>Influence they actually have (rank order)</b>	<b>Influence they should have (rank order)</b>
<b>Children</b>		
<b>NGOs</b>		
<b>Government</b>		
<b>Media</b>		
<b>Parents</b>		
<b>Religious organisations/ churches</b>		

Any other comments:

**5) Which rung on Roger Hart's 'Ladder of children's participation' best describes the level of children's engagement in your organisation?**

Child-initiated, shared decisions with adults	
Child-initiated and directed	
Adult-initiated, shared decisions with children	
Children consulted and informed	
Children assigned but informed	
Tokenism	
Decoration	
Manipulation	

Any other comments:

**6) How does your membership of ENOC help in your work?**

**7) a) What impact do you expect your work to have on childhood and children's lives?**

**b) Do you aim to have an impact on particular groups of children? If so, which?**

**8) a) What has been the most significant impact of your organisation on children?**

--

**b) How would/do you try to evaluate or measure your impact?**

--

**9) a) Has your organisation undergone any evaluation (internal or external)? Was it helpful? In what ways?**

--

**b) Were any children's rights or other indicators used in the evaluation? If so please explain.**

--

**10) Would you be interested in participating in the second phase of this project, looking into ways of evaluating the impact of your institution on childhood and children's lives?**

Yes	
No	
Would like further information	
Any other comments:	

**Thank you very much indeed for your help. Please sign the declaration below, indicating if there are any responses which you would prefer to keep confidential.**

**I understand the conditions above and I am declaring my consent to them. I understand that my responses will be used in the research and may be included in the published findings. Except where I have stated otherwise below (or indicated in the answers themselves), I am happy for my institution to be named in relation to these responses.**

**Signed .....**

**Date .....**

## Appendix 6: Questionnaire and Consent in French

University of Central Lancashire School of Social Work

### Évaluation de l'Impact des Institutions indépendantes de droits de l'homme pour les enfants , Sondage auprès des membres d'ENOC

Pays ou Région	
Dénomination de l'Institution	
Membre effectif d'ENOC ou membre associé	
Personne complétant le questionnaire	
Position dans l'organisation	

#### 1) Quels sont les objectifs et les priorités de votre organisation?

**Veillez sélectionner et classer par ordre d'importance les propositions suivantes (utiliser le numéro 1 pour la plus importante et ainsi de suite)**

Promouvoir la pleine application de la Convention	
Influer sur les lois, les politiques et les pratiques	
Promouvoir une priorité élargie pour les enfants et pour le public des attitudes plus positives	
Encourager le gouvernement à respecter correctement l'opinion des enfants	
Faire connaître les droits de l'enfant aux enfants et aux adultes	
Surveiller et promouvoir l'accès des enfants aux processus de plaidoyer et de plaintes	
Promouvoir les droits de certains groupes d'enfants défavorisés	
Autres commentaires:	

2) a) Par qui ou quoi êtes-vous aidé pour atteindre vos objectifs?

--

b) Les principaux obstacles à la réalisation de vos objectifs proviennent de qui ou quoi ?

--

1) a) Trouvez-vous que le Convention des Nations Unies relative aux droits de l'enfant (CNUDE), est adéquat en tant que cadre pour guider votre travail?

2)

Oui	
Non	
Autres commentaires:	

b) Autres cadres que vous utilisez le cas échéant ?

--

4) De quelle influence dispose chacune des parties prenantes dans votre travail, et quelle influence pensez-vous qu'elle devrait avoir?

**Veillez utiliser le numéro 1 pour la plus importante et ainsi de suite**

<b>Les parties prenantes</b>	Influence qu'elles ont réellement (ordre d'importance)	Influence qu'elles devraient avoir (ordre d'importance)
<b>Les enfants</b>		
<b>Les ONGs</b>		
<b>Le gouvernement</b>		
<b>Les médias</b>		
<b>Les Parents</b>		
<b>Les Organisations religieuses/ Eglises</b>		
Autres commentaires:		

**5) Dans «l'échelle de la participation des enfants » de Roger Hart, quel échelon décrit le mieux le niveau d'engagement des enfants au sein de votre organisation?**

Initiée par l'enfant, décisions partagées avec des adultes	
Enfant-initiée et dirigée	
Initiées par adulte, décisions partagées avec les enfants	
Enfants consultés et informés	
Enfants désignés mais informés	
Présence symbolique	
Figuration	
Manipulation	

Autres commentaires:

**6) Comment votre adhésion à ENOC vous aide-t-elle dans votre travail ?**

**7) a) Quel impact attendez-vous de votre travail sur l'enfance, la vie des enfants?**

**b) Visez-vous un impact sur des groupes particuliers d'enfants? Si oui, lesquels?**

**8) a) Quel a été l'impact le plus important sur les enfants de votre organisation ?**

**b) Comment évaluez-vous / essayeriez-vous d'évaluer votre impact ?**

- 9) a) Si votre organisation n'a fait l'objet d'aucune évaluation (interne ou externe), cette dernière aurait-elle ou non été utile? Dans quels sens?

--

- b) L'évaluation s'est-elle servi des droits pour les enfants ou d'autres indicateurs ? Si oui, veuillez expliquer.

--

- 10) Seriez-vous intéressé à participer à la deuxième phase de ce projet, soit la recherche des moyens d'évaluation de l'impact de votre institution sur l'enfance et la vie des enfants?

Oui	
Non	
Je souhaiterais obtenir des informations complémentaires	
Autres commentaires:	

**Merci beaucoup pour votre aide. Veuillez signer la déclaration ci-dessous, en indiquant les réponses que vous préférez garder confidentielles.**

**Je comprends les conditions ci-dessus et j'y consens.**

**Je comprends que mes réponses seront utilisées dans la recherche et pourront être incluses dans les résultats publiés. Excepté dans les cas précisés ci-dessous (ou indiqués dans les réponses elles-mêmes), je suis satisfait(e) que mon institution soit identifiée en relation avec ces réponses.**

**Signer .....**

**Dater .....**

**Veuillez retourner à Sara Imanian: [SImanian@uclan.ac.uk](mailto:SImanian@uclan.ac.uk)**

## **Appendix 7: ENOC Members at the time of Survey (Summer 2012)**

Azerbaijan	<a href="#">Office of Commissioner for Human Rights of the Republic of Azerbaijan</a>
Austria	Ombudsperson for Children (Vorarlberg Province)
Belgium	<a href="#">Children's Rights Commissioner - Belgium (Flemish)</a> <a href="#">Délégué général de la Communauté française aux droits de l'enfant</a>
Bosnia and Herzegovina	<a href="#">Ombudsman for children of Republika Srpska</a> <a href="#">The Human Rights Ombudsman of Bosnia and Herzegovina</a>
Croatia	<a href="#">The Ombudsperson for Children Republic of Croatia</a>
Cyprus	<a href="#">Commissioner for Children's Rights of the Republic of Cyprus</a>
Denmark	<a href="#">Danish Council for Children's Rights</a>
Finland	<a href="#">Ombudsman for children, Finland</a>
France	<a href="#">Défenseur des Droits-Défenseur adjoint aux droits des enfants</a>
Georgia	<a href="#">The Office of the Public Defender of Georgia</a>
Greece	<a href="#">Independent Authority Ombudsman of the Hellenic Republic Department of Children's Rights - Greece</a>
Hungary	<a href="#">Commissioner for Fundamental Rights - Hungary</a>
Iceland	<a href="#">Ombudsman for Children - Iceland</a>
Ireland	<a href="#">Ombudsman for Children - Ireland</a>
Italy	<a href="#">National Authority for Children and Adolescents-Italy</a>
Latvia	Ombudsman of the Republic of Latvia - Children's Rights Department
Lithuania	<a href="#">Ombudsperson for Children's Rights - Lithuania</a>
Luxembourg	<a href="#">Ombudscommittee for the Rights of the Child - Luxembourg</a>
Malta	<a href="#">Commissioner for Children - Malta</a>
Moldova, Republic of	<a href="#">The Center for Human Rights</a>

Montenegro	<a href="#"><u>Protector of Human Rights and Freedoms of Montenegro</u></a>
Netherlands	<a href="#"><u>De Kinderombudsman</u></a>
Norway	<a href="#"><u>Ombudsman for Children - Norway</u></a>
Poland	<a href="#"><u>Ombudsman for Children-Poland</u></a>
Portugal	Provedoria de Justica
Russian Federation	<a href="#"><u>Ombudsman for Children under the President of the Federation of Russia</u></a>
Serbia	<a href="#"><u>Protector of Citizens, Serbia</u></a> <a href="#"><u>The Provincial Ombudsman-Autonomous Province of Vojvodina</u></a>
Slovakia	<a href="#"><u>Office of The Public Defender of Rights - Slovak Republic</u></a>
Slovenia	<a href="#"><u>Slovenia Human Rights Ombudsman Office</u></a>
Spain	<a href="#"><u>Defensor del Menor Madrid-Spain</u></a> <a href="#"><u>Office of the Catalan Ombudsman-Deputy Ombudsman for Children's Rights</u></a> <a href="#"><u>Children's Ombudsman in Andalusia-Spain</u></a> <a href="#"><u>Valedor do Pobo de Galicia</u></a>
Sweden	<a href="#"><u>Ombudsman for Children in Sweden</u></a>
United Kingdom	<a href="#"><u>Children's Commissioner for Wales - UK</u></a> <a href="#"><u>Office of the Children's Commissioner for England-UK</u></a> <a href="#"><u>Northern Ireland Commissioner for Children and Young People</u></a> <a href="#"><u>Scotland's Commissioner for Children and Young People</u></a>

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## **Appendix 8: Lapsiasia Participants**

### **FINLAND**

Maria Kaisa Aula: Ombudsman for Children in Finland

#### **Staff:**

Raija Harju-Kivinen

Janna Terro

Johanna Kiili

Sanna Sirnio

Jouko Laaksonen

Tiinu Wuolio

#### **Stakeholders:**

Mikko Oranen

Georg Wrede

Suvianna Hakaletto

Markku Jokinen

Aulikki Kananoja

Mia Lumio

Anja Pettonen

Kirsti Kurki

Lasse Kannas

Leena Alanen

Kalevi Virtanen

#### **Young People**

Marjo Kaul

Pipsa Vario

Santeri Lohi

Aatu Juovanen

## **Appendix 9: NICCY Participants**

### **Northern Ireland**

Patricia Lewsley-Mooney

Mairead Mc Cafferty

### **Staff:**

Moli Simpson

Sinead Mallon

Alex Tennant

Marlene Kinghan

Jonathan Traynor

Ken Smyth

### **Stakeholders:**

Nicola Drenan

Sean Brolly

Pauline Leeson

Mat Crozier

Alan Sheeran

Paschal McKeown

Paddy Kelly

Janice Spence

Brian Moss

Bronagh Byrne

Laura Lundy

### **Young People**

Megan O'Kane

Nikita Harkin

## Appendix 10: Lapsiasia Proposal for Phase 2 Case Study

### Evaluating the Impact of Children's Ombudspersons

#### Proposal for Phase 2 Case Study

**Focus:** Based on the findings from our survey with ENOC members and consultations with experts in fields, we propose that the main focus is on evaluating your organisation's impact on law and policy, and how this is informed by children's perspectives. Within this framework, we would like to offer a degree of flexibility for you to identify particular areas which you would like to study.

**Method:** The research will draw on methods of appreciative inquiry and realistic evaluation, in an attempt to understand the *mechanisms* that produce successful *outcomes* and the *contexts* in which they work. The project will be comprised of three main stages: (i) An exchange of ideas with your core team to develop the detailed plan for the case study, so that this is a collaborative evaluation from the start, and to identify key sources and informants; (ii) A data gathering phase in which we propose to interview selected staff in your team and some of your stakeholders (including the youth panel advisors, NGOs and representatives of Government), as well as examining relevant documents related to your work; initial analysis will be largely concurrent with data collection; (iii) A third stage in which we will share our findings with you, complete the analysis, and will help you to plan for future work and further evaluation.

**Timing:** We need to complete this project by the end of August 2013. Taking account busy times and holidays, we suggest a maximum of seven months for the complete evaluation, as in the table below:

Stage	Length	Involves
Research Design	1 Month	<ul style="list-style-type: none"><li>Collaborative planning</li><li>Familiarising with the context, structure and function of your institution</li></ul>
Data Collection	4 Months	<ul style="list-style-type: none"><li>Field research (face to face, phone call or Skype interviews with informants)</li><li>Document analysis</li></ul>
Data Analysis	2 Months	<ul style="list-style-type: none"><li>Discussing the findings with you</li><li>Clarifying</li><li>Spotting the strengths</li><li>Planning for the future</li></ul>

**Costs:** The costs of the project are minimal in that the researcher time is already provided. We would need a budget for travel and associated expenses. The university can contribute to this, but it would be really helpful if you were able to set aside some funds for this too. We consider that at least two visits to Jyvaskyla will be necessary to maximise the value of the research, although some interviews can be conducted by telephone or Skype. We estimate that the cost of travel and accommodation for a three-day visit, for example, would be roughly €1000.

**Publication:** We would expect to publish the results of the research in academic journals and other relevant outlets, in addition to providing a report for yourselves. We would offer to let you see and comment on any such material before publication, and would seek to address any issues in consultation with yourselves, recognising that some of the findings may be politically sensitive. We would be responsible for seeking ethical approval for the research from the University's ethics committee.

## Appendix 11: NICCY Proposal for Phase 2 Case Study

### Evaluating the Impact of Children's Commissioners

#### Proposal for Phase 2 Case Study

**Focus:** Based on the findings from our survey with ENOC members and consultations with experts in fields, we propose that the main focus is on evaluating your organisation's impact on law and policy, and how this is informed by children's perspectives. Within this framework, we would like to offer a degree of flexibility for you to identify particular areas which you would like to study.

**Method:** The research will draw on methods of appreciative inquiry and realistic evaluation, in an attempt to understand the *mechanisms* that produce successful *outcomes* and the *contexts* in which they work. The project will be comprised of three main stages: (i) An exchange of ideas with your core team to develop the detailed plan for the case study, so that this is a collaborative evaluation from the start, and to identify key sources and informants; (ii) A data gathering phase in which we propose to interview selected staff in your team and some of your stakeholders (including the youth panel advisors, NGOs and representatives of Government), as well as examining relevant documents related to your work; initial analysis will be largely concurrent with data collection; (iii) A third stage in which we will share our findings with you, complete the analysis, and will help you to plan for future work and further evaluation.

**Timing:** We need to complete this project by the end of August 2013. Taking account busy times and holidays, we suggest a maximum of seven months for the complete evaluation, as in the table below:

Stage	Length	Involves
Research Design	1 Month	<ul style="list-style-type: none"><li>Collaborative planning</li><li>Familiarising with the context, structure and function of your institution</li></ul>
Data Collection	4 Months	<ul style="list-style-type: none"><li>Field research (face to face, phone call or Skype interviews with informants)</li><li>Document analysis</li></ul>
Data Analysis	2 Months	<ul style="list-style-type: none"><li>Discussing the findings with you</li><li>Clarifying</li><li>Spotting the strengths</li><li>Planning for the future</li></ul>

**Costs:** The costs of the project are minimal in that the researcher time is already provided. We would need a budget for travel and associated expenses. The university can contribute to this, but it would be really helpful if you were able to set aside some funds for this too. We consider that at least two visits to Belfast will be necessary to maximise the value of the research, although some interviews can be conducted by telephone or Skype. We estimate that the cost of travel and accommodation for a three-day visit, for example, would be roughly £400.

**Publication:** We would expect to publish the results of the research in academic journals and other relevant outlets, in addition to providing a report for yourselves. We would offer to let you see and comment on any such material before publication, and would seek to address any issues in consultation with yourselves, recognising that some of the findings may be politically sensitive. We would be responsible for seeking ethical approval for the research from the University's ethics committee.

## **Appendix 12: Interview Covering Letter and Consent - Adults' Version**



April 2013

Dear Participant

I am contacting you regarding a doctoral research project, the aims of which are to explore ways to evaluate the impact of Independent Human Rights Institutions for Children (IHRICs). The first phase of the project was a survey with European IHRICs. Analysis of this suggested areas of impact that should be focused on and stakeholders that should be consulted. It also assisted in identifying IHRICs that were interested in taking part as case studies for the second phase. I am pleased to say that the Northern Ireland Commissioner for Children and Young People (NICCY) and the Ombudsman for Children in Finland have agreed to be the case studies for the second phase of the research.

The focus of the case studies will be on evaluating the organisations' impact on law and policy, and how far this is based on children's perspectives. The research will draw on methods of appreciative inquiry and realistic evaluation. It will involve discussions with the institutions' teams to identify areas of impact and key informants, followed by semi-structured interviews and a few focus groups with stakeholders, including some children and young people. The findings of the study will be shared with the Commissioner, in order to help us complete the analysis, and to help them to plan for future work and further evaluation

I would like to interview you as one of the key informants about the impact of these institutions. Participation in the study is completely voluntary, but I sincerely hope that you will respond. By signing the consent form, you will be indicating your agreement for your responses to be used in the research or published in the future. You will not be identified personally in the report or other publications, or in my discussions with the Commissioner's team. The interview is likely to take not more than one hour of your time. Your collaboration is indeed appreciated.

Ethical approval for this research has been given by the Psychology and Social Work Research Ethics Committee of the University of Central Lancashire. My Director of Studies is Professor Nigel Thomas (tel. (0)1772 894514, email [npthomas@uclan.ac.uk](mailto:npthomas@uclan.ac.uk)) Do not hesitate to contact myself or Professor Thomas if you have any queries or concerns.

Yours sincerely,

Sara Imanian  
[simanian@uclan.ac.uk](mailto:simanian@uclan.ac.uk)

School of Social Work, Room 301, Harrington Building  
University of Central Lancashire  
Preston, Lancashire  
PR1 2HE, United Kingdom

**Thank you very much indeed for accepting to participate in this research.**

**Please sign the declaration below, indicating if there are any responses which you would prefer to keep confidential.**

I understand the conditions above and I am declaring my consent to them. By signing this form, I am agreeing to the researcher audio recording my interview as part of this research. I understand that my responses will be used in the research and may be included in the published findings, but that I will not be identified personally.

**Signed** .....

**Date** .....

## Appendix 13: Interview Covering Letter and Consent - CYP' Version- Lapsiasia

### What has your Ombudsman done for children?

My name is Sara and I am studying at the University of Central Lancashire in the UK. I am doing research about Finland's Ombudsman for Children.



I would really like to interview you to hear about how you would describe your Ombudsman's role and what she has done for children.



You can say yes or no. It is up to you whether you take part.

If you decide to take part you will be asked to take part in an interview. You can ask for the interview to stop at any time. It will take no longer than one hour.

There will be a chance to ask questions before the interview begins. If you would like to talk to me or if you would like to know more about the research, please contact me: [SImanian@uclan.ac.uk](mailto:SImanian@uclan.ac.uk)

School of Social Work  
Room 301, Harrington Building  
University of Central Lancashire  
Preston, Lancashire  
PR1 2HE, United Kingdom

Thank you for taking the time to read this letter and for your help.

I understand that the interview will be recorded.

I understand that I can stop the interview at any time.

I understand the statements above

I have decided that I would like to talk to Sara about my Ombudsman.

Signed.....

Please print your name.....



**Appendix 14: Interview Covering Letter and Consent - CYP' Version in Finnish-Lapsiasia**

**Mitä lapsiasiavaltuutettu on tehnyt sinun ja lasten hyväksi?**

Hei, nimeni on Sara. Opiskelen Iso-Britanniassa yliopistossa nimeltään University of Central Lancashire. Teen parhaillaan tutkimusta Suomen lapsiasiavaltuutetusta.



Tutkimukseeni liittyen haluaisin haastatella sinua. Minua kiinnostaa kuulla ajatuksiasi lapsiasiavaltuutetun toiminnasta ja siitä, mitä hän on tehnyt lasten hyväksi.



Voit itse päättää haluatko osallistua tutkimukseen. Jos päätät osallistua, sinua pyydetään osallistumaan haastatteluun. Haastattelu kestää korkeintaan tunnin. Voit halutessasi keskeyttää haastattelun aikaisemmin.

Ennen haastattelua sinulla on halutessasi mahdollisuus keskustella kanssani ja saada lisätietoa tutkimuksesta. Voit lähettää minulle kysymyksiä joko sähköpostitse tai kirjeellä (voit lähettää kysymykset englanniksi tai suomeksi).

Sähköpostiosoite: [SImanian@uclan.ac.uk](mailto:SImanian@uclan.ac.uk)

School of Social Work  
Room 301, Harrington Building  
University of Central Lancashire  
Preston, Lancashire  
PR1 2HE, United Kingdom

**Kiitos avustasi ja siitä että luit tämän kirjeen.**

<p><b>Hyväksyn sen että haastattelu nauhoitetaan.</b></p>
<p><b>Voin halutessani keskeyttää haastattelun.</b></p>
<p><b>Haluan osallistua tutkimusprojektiin, ymmärrän myös että haastattelu nauhoitetaan ja että voin keskeyttää sen.</b></p>
<p><b>Olen päättänyt että haluan keskustella Saran kanssa lapsiasiavaltuutetustamme.</b></p>
<p><b>Allekirjoitus.....</b></p> <p><b>Nimen selvennys .....</b></p>



**Appendix 15: Interview Covering Letter and Consent - CYP' Version- NICCY**

**What has your Commissioner done for children and young people?**

My name is Sara and I am studying at the University of Central Lancashire in the UK. I am doing research about Northern Ireland's Commissioner for Children and Young People.



I would really like to interview you to hear about how you would describe your Commissioner's role and what she has done for children and young people.



You can say yes or no. It is up to you whether you take part.

If you decide to take part you will be asked to take part in an interview. You can ask for the interview to stop at any time. It will take no longer than one hour.

There will be a chance to ask questions before the interview begins. If you would like to talk to me or if you would like to know more about the research, please contact me: [SImanian@uclan.ac.uk](mailto:SImanian@uclan.ac.uk)

School of Social Work  
Room 301, Harrington Building  
University of Central Lancashire  
Preston, Lancashire  
PR1 2HE, United Kingdom

Thank you for taking the time to read this letter and for your help.

I understand that the interview will be recorded.

I understand that I can stop the interview at any time.

I understand the statements above.

I have decided that I would like to talk to Sara about my Commissioner.

Signed .....

Please print your name .....



## **Appendix 16: Interview Cue sheet for Semi structured interviews**

- Strengths of the institution
- Difference that it has made to childhood
- Any particular project that has proved considerably effective
- Significant impact it has made on law and policy
- Best experiences of working with/for the institution
- Dreams for the future of the institution
- Further plans for the future
- How to improve the institution's impact

## **Appendix 17: List of Lapsiasia's Advisory Board attending the video conference**

**Elina Pekkarinen, PhD**

Finnish Society for Childhood Studies

**Elli Aaltonen**

Director General

Regional State Administrative Agency for Eastern Finland

**Mirella Huttunen**

Head of Domestic Advocacy

Finnish Committee for UNICEF

**Tero Mikkola**

Senior Specialist

Ministry of the Interior

Migration Department

**Tiina Muukkonen**

Specialist in Child Protection

National Institute for Health and Welfare

**Marjaana Pelkonen**

Ministerial advisor ,

Ministry of Social Affairs and Health.

**Sirkka Rousu, Principal Lecturer**

(Bachelor of Social Services, social worker)

**Outi Kemppainen**

Legislative Counsellor

Ministry of Justice

Law Drafting Department

Private Law Unit

**Riikka Rautanen**

Head of Statistics

Population and Social Statistics, data collections

Statistics Finland

**Tuomo Valve**

Advisory Council for Youth Affairs<sup>14</sup>

**Anna-Liisa Tarvainen**

Managing Director

The Central Organization for Traffic Safety in Finland

**Anne-Marie Välikangas**

Ministerial Adviser

Ministry of Finance

**Otto Ahoniemi**

President

The Union of Upper Secondary School Students in Finland.

**Lasse Halme**

General Secretary

The Finnish Evangelical Lutheran Parishes' Centre for Child Work.

**Jari Rajanen**

Director

Ministry of Education and Culture

**Heli Nederström**

Counsellor of Education

Ministry of Education and Culture

**Georg Henrik Wrede**

Director Department for Youth and Sport Policy, Division for Youth Work and Youth Policy

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<sup>14</sup> The national Advisory Council for Youth Affairs (Nuora) is a consultative body attached to the Ministry of Education and Culture. It produces information about young people's living conditions by means of reviews and a regularly updated statistical database. In addition, the Council drafts programmes, action and initiatives relating to young people. One important duty for the Council is to evaluate the youth policy development programme for the Government and to give its opinion on the matters to be included in the programme. The Youth Barometer published annually by the Council surveys young people's attitudes and values, future expectations and opinions of their social influence. The Advisory Council for Youth Affairs represents expertise in young people's living conditions. Most of its members are nominated by national youth and youth-work organisations.

Ministry of Education and Culture

**Pentti Arajärvi**

Chairperson (of body)

CENTRAL UNION FOR CHILD WELFARE

**Anne Alitolppa-Niitamo**

Senior specialist

Ministry of Employment and the Economy.

**Päivi Kähkönen**

Director

National Church Council

Education and Family Affairs

Evangelical Lutheran Church of Finland

**Riittakerttu Kaltiala-Heino**

Chief Psychiatrist, Department of Adolescent Psychiatry

Tampere University Hospital, and Professor of Adolescent Psychiatry

University of Tampere

**Olli Joensuu**

General Secretary

Finnish Youth Co-operation Allianssi

**Satu SISTONEN**

Legal Officer

Ministry for Foreign Affairs

Legal Service

Unit for Human Rights Courts and Conventions

**Antti Simanainen**

Superintendent

Police Department / Policing Planning,

Ministry of the Interior

**Markku Rimpelä**

Head of Purchasing

Children and Youth Services,

Sport and Culture  
City of Hämeenlinna

**Aila Puustinen-Korhonen**

Senior Adviser  
Social Welfare and Health Care  
The Association of Finnish Local and Regional Authorities

**Mirjam Kalland**

Secretary General  
The Mannerheim League for Child Welfare.

**Noora Ellonen**

Senior Researcher  
Police University College

**Anneli Pouta**

Head of the Department  
Department of Children, Young People and Families  
National Institute for Health and Welfare

**Mia Lumio**

Project Manager, City of Tampere

**Maarit Alasuutari**

University Researcher, PhD, Adj. Professor  
Department of Education/Early Childhood Education  
University of Jyväskylä

**Marjo Lavikainen**

Ministerial Adviser  
Ministry of Social Affairs and Health

## **Appendix 18: Lapsiasia's Projects**

### ***Surveys with Children about School and Family Life***

#### ***School Satisfaction Survey***

This was, the first survey conducted by Lapsiasia. In 2006, the Ombudsman started collecting children's views and insights via school councils. She argued that school food, classroom and playground conditions all too often appear to be beyond the scope of children's influence while children's views should be listened to better when developing school and other services. The survey revealed that children wished they had more say on their daily school life, for instance on the physical environment, school yards, school meals and the general structure of the school day. Children also wished that they would not have to rush through their lunch and that their school playgrounds were more pleasant and comfortable (Lapsiasia, 2007).

As the Ombudsman puts it:

*The start of our small surveys was an important phase when we started asking children open questions about their experiences of life and what improvements and influences they wanted. It was not a quantitative questionnaire. About school for example, children told us about the yard and building of their school, their breaks, quality of meals, atmosphere of friendship and relationships with teachers. It was repeated in further surveys we had with children; One boy said 'learning is too much, we want more football', it was very representative of children's wants about school.*

She continues that based on the results of the survey, Lapsiasia has '*tried to impact the national curriculum and make guidelines for municipalities... for improvement of school life for example, how they should invest budget on school yards. I think it is improved. Now, there are cosier yards. Of course we are not the only actors working on these issues.*'

#### ***Survey on Children's Realisation of Their Rights***

The study entitled as 'It Concerns Adults!' collected children's ideas about their experiences of family life as the basis for an independent report by the Ombudsman for Children. It contributed to the government's 4<sup>th</sup> periodic report to the UNCCRC. The survey was carried out as an online questionnaire in 2008. It was directed via groups of primary and secondary school pupils. Around 600 replies were received from different parts of Finland. 70% of respondents were primary school students. The survey was carried out in partnership with the Centre for School Clubs and the Association of the Finnish Children's Parliament. What Finnish children needed in their family lives, according to the study, was: more parents' presence and less loneliness, more family time especially eating meals, more playing, more preventive services for parents, more

opportunities for participation, taking part in decisions and being heard at home (Lapsiasia, 2009a).

Following what children said in the second survey, Lapsiasia has considered the situation and problems of parents as well, and has contributed to positive parenting. They have also argued that parents should be supported by social services and trained via positive parenting mechanisms. In collaboration with academics, National Institute for Health and Welfare, Evangelical Church, youth service organizations and an NGO (Finnish Parents' Association), Lapsiasia published a book (*Ten Questions on Child Raising*). The book challenges Finnish established ideas on child raising (Lapsiasia, 2011a).

No further similar survey has been conducted to monitor any changes in how children perceive their school and family life yet. I found no evidence of the effectiveness of the published book in supporting addicted parents who struggle under financial pressure.

### ***Surveys with Minority Children***

#### ***Sámi Children***

This research was carried out in autumn 2007 and was funded by the European Union and the State Provincial Office of Lapland. The project was a joint one with the Norway Office. The information used in the report was gathered from 13-18 year old young people at schools in the Sámi region of Finland. Some parents and professionals were also interviewed. The survey was conducted by a questionnaire and small group interviews. 87 completed questionnaires were returned. The focus group interviews were attended by 36 school students. In addition, 14 Sámi parents and 13 teachers participated in the interviews. The answers supplied by the parents of the Sámi children were mainly the same as those given by the children (Rasmus, 2008).

The majority of Sámi youth were satisfied with their school. However, they were concerned about the Sámi language which is not used in higher education and the lack of teaching Sámi culture at schools. Although the right of Sámi children to their own language is guaranteed by law, Sámi children are in a very unequal position with respect to learning their language and learning lessons in Sámi. Some young people receive only two hours of Sámi language instruction a week via the internet, while others can learn practically all their subjects in Sámi.

Based on the findings of the survey, the Ombudsman's main recommendation to Government was amending the Basic Education Act and the Early Childhood Education Act to ensure that the needs of Sámi children are taken into account. Also, the CRC was translated into North Sámi in an EU-funded joint project by Lapsiasia, Sweden and Norway; and the Ombudsman made its website available in the Sámi language, too.

Representatives of the Sámi community have given positive feedback on the project. It is noted that children's affairs have gained more presence in the media and in public debate. It is also estimated that there is now a better understanding in central government administration of the everyday lives of children (Lapsiasia, 2010a).

The Ombudsman reported that *'This survey impacted Sámi adult community in addition to their authorities; after one year, the Sámi Parliamentary established the Sámi Youth Council and the Ministry of Education financed them. That was probably the clearest impact of this survey. Afterwards, the Government has had lots of drafting about Sámi children issues and language.'*

According to the report, the task of the Youth Council is to prepare statements, initiatives and other opinions pertaining to Sámi adolescents or to their living conditions and wellbeing. The Council is required to promote the language and cultural rights of Sámi adolescents nationwide, and to reinforce their sense of affinity with the Sámi culture. Its members have the right to attend and speak at the General Assembly of the Sámi Parliament. Sámi adolescents have reported that their willingness, potential and ability to influence their own matters have improved.

#### ***Survey with Roma Children***

The purpose of this survey (2008), commissioned from the Department of History and Ethnography of the University of Jyväskylä was to give Finnish Roma children and young people a platform to be heard about their day-to-day lives and lifestyle. Though Roma are an important ethnic minority in Finland, there is very little research data on the welfare of their children and young people and their experiences. This study was based on interviews with 36 Roma children of 10-18 years old. The interviewees were selected from different parts of the country. Roma adults working with children and young people were also interviewed for the report (Junkala and Tawah, 2009).

Roma Children's Concerns were: high drop-out rates and repeated grades at school due to high incidence of bullying (despite the high threshold for recording bullying in Roma children and young people), lack of youth workers for Roma children and lack of knowledge of Roma culture leading to discrimination (Lapsiasia, 2009b). The Ombudsman for Children included numerous recommendations in her report for local, regional and national decision-makers for the realization of the rights of Roma children and improving their welfare. These included establishing a national policy on Roma people with special reference to Roma children's participation in addition to recruiting more Roma staff at schools and training all teaching professionals with Roma culture. The Ombudsman also stated that the promotion of opportunities for Roma children and young people to participate and exert an influence remains the duty of all adults, but particularly the national and regional advisory boards on Roma affairs and local Roma affairs committees (Lapsiasia, 2008b).

As an outcome of the project, a National Policy on Roma was introduced by the Government in 2009, featuring concrete measures for improving the status of the Roma population in Finland. This was an important positive step. The findings of the survey were taken into account in drafting the National Policy which could have paid more attention to Roma children's participation and their leisure and cultural activities (Lapsiasia, 2011b).

According to the Ombudsman, as a result of the survey:

*Roma community have tried to ask children and listen to them in their meetings and the national Roma program, the findings especially about education are taken into account. But the situation of Roma people here is much better than some parts of Europe. In some countries, they are isolated and have difficulties in finding places to settle, schools, food...*

### ***Developing Child Well-being Indicators***

As reported by the Ombudsman, when Lapsiasia was established there were not enough tools to monitor children's wellbeing in Finland. So one of the main expectations authorities had of the Ombudsman was to work on measuring the wellbeing of children.

This project started in 2007 and indicators were developed in its first phase. In 2010, a working group appointed by the Ministry of Education and Culture drew up a comprehensive proposal for creating a knowledge-based policy for the wellbeing of children in Finland. The Ombudsman for Children was the chairman of the working group. Information-based child, youth and family policy was set as the goal. The working group charted shortcomings in the knowledge base regarding the wellbeing of children and drew up a proposal for national indicators of the wellbeing of children. In the second phase, the Ministry of Education and Culture launched production of about 40 indicators of the wellbeing of children and introduced regular reporting to decision-makers. In the future, the annual report of Lapsiasia is to report on the state of the wellbeing of children on the basis of these indicators. Information production would be linked to the planning and management of children's wellbeing services in municipalities. Some of these indicators include: subjective wellbeing of the school children, incidences of violence and reasons for putting children into the care system. These indicators are being tested in a joint project between Lapsiasia, the Ministry of Education and Culture and the Health Dept of the University of Jyväskylä (Lapsiasia, 2011b and 2013a).

Several years of effort have been put into compiling the necessary data and developing national indicators reflecting the wellbeing of children and young people. The indicators were grouped into six categories following the UNCRC: 1) standard of living (material wellbeing), 2) safe environment, 3) health, 4) education, 5) family, participation and leisure time, and 6) support and protection provided by the state and municipal authorities. However, one of the participants who

was a childhood expert thought: *‘The project is about children welfare indicators, not children’s rights ones’*.

In 2014 Lapsiasia reported that according to the indicators used, for the vast majority of children and young people the situation is positive. Nine out of ten children are satisfied with their life, have friends and hobbies, can discuss issues with their parents, and feel that their parents support their education. Corporal punishment is becoming rare as a parenting method, and the environments where children grow and develop are safer. School spaces have improved and they encourage children’s participation. Consequently, primary schools have become more popular with children. However, the Ombudsman pointed out that wellbeing is unevenly spread, and children in Finland experience very different childhoods. She added that while the vast majority of children are well cared-for, problems tend to accumulate among those less fortunate (Lapsiasia, 2014).

## **Appendix 19: NICCY's Projects**

### ***Research Projects***

NICCY has tried to make ensure what it does is based on good quality research. Over recent years, it has carried out extensive research in several areas or commissioned some notable pieces of study. It has taken Haydon's (2006) advice into consideration regarding presenting satisfying justifications for commissioned research, ensuring consultation with the most disadvantaged/vulnerable/excluded children and young people and disseminating reports to a wide audience. Three effective NICCY research projects mentioned by participants were: Children's Rights in NI (2004), Children's Rights: Rhetoric or Reality (2007) and Barriers to Effective Government Delivery (2011).

#### ***Children's Rights in NI***

In 2004, NICCY commissioned a study entitled 'Children's Rights in Northern Ireland' from Queen's University Belfast (QUB) with Helen Beckett – then head of Policy and Research Team – as lead author. The research presented findings in relation to general measures relating to the implementation of the UNCRC: Family Life and Alternative Care; Health, Welfare and Material Deprivation; Education; Play and Leisure; and Youth Justice and Policing. Its aim was to highlight the gaps, problems and difficulties in the protection, promotion and implementation of Children's Rights in NI. The research, which was comprehensive in nature and extent, allowed for consultation with children and young people and their carers, as well as a broad range of professionals and volunteers working across all elements of the children's sector.

Indeed, the research uncovered concern among some community and voluntary sector organisations and statutory bodies that children's rights were, in fact, being deprioritised despite the 10-year Strategy for Children and Young People. The research ultimately highlighted a need for action in implementing children's rights in NI more effectively. It recommended a more consistent application of a children's rights framework to policy development and implementation and that consideration be given to a statutory duty to co-operate at both central government and intra agency level (NICCY, 2004a).

#### ***Children's Rights: Rhetoric or Reality?***

This study (NICCY, 2008b) was commissioned as a follow up to the 2004 research. It assessed the state of children's rights in NI against the framework of rights contained within the CRC. Considering a wide range of both primary and secondary data sources, it identified areas of progress and concern and set out a series of priority action areas that must be addressed if children's rights are to be more effectively realised within NI.

In 2008, the report was presented to a full-capacity audience, including Executive Ministers, MLAs and representatives from the statutory and voluntary sectors. The Commissioner used this opportunity to urge Ministers and government departments to consider, and act where needed, on the findings of the review and to implement action to prioritise the rights and best interests of children and young people across all aspects of legislation, policy and practice (NICCY, 2009a).

Following the launch more than 700 hard copies of the report were distributed, and its chapters downloaded more than 8,200 times from the website. NICCY further disseminated the review through policy briefings, workshops, children and young people's campaign briefings, which formed the basis of NICCY's year-long celebration of the 20<sup>th</sup> anniversary of the UNCRC, starting in November 2009 (NI Assembly, 2010).

The report has been cited extensively by academics and individuals engaged in policy development and evaluation in the statutory and voluntary sectors, and has also informed the work of individuals and agencies who seek to promote the rights of children and young people through legislation, policy and practice.

### ***Barriers to Effective Government Delivery Report***

In 2011, NICCY commissioned researchers from QUB to produce a report (Byrne and Lundy, 2011) on the barriers to effective government delivery for children in NI. It identified barriers such as delays in policy development, a lack of 'joined-up working', changes to staffing, inadequate data collection and analysis, and a lack of resources to implement policies and strategies for children. The study included documentary analysis and semi-structured interviews with representatives from voluntary, statutory and government agencies, with the aim to develop qualitative indicators on implementing the CRC.

The findings were grouped into nine key themes:

- Commitment to children's rights;
- Training and awareness;
- Delays in development and implementation of key strategies, policies and action plans;
- Translating strategic visions into specific and measurable outcomes;
- Coordinated and joined up government;
- Resourcing;
- Data, analysis and research;
- Engagement with children in the development and implementation of strategies, policies and action plans;
- Impact assessment.

The report's recommendations included: re-prioritising children in the new Programme for Government, making children visible in budgets and ring-fencing resources for children, putting in place a statutory duty to cooperate when planning and delivering services to children, and building capacity of government officials in relation to children's rights.

It also included a proposal for 'Children's Champions' within each government department, as a contact point and to coordinate delivery for children and young people. Children's Champions are now in place and the Commissioner has supported and helped train these officials (NICCY, 2013a). Each department has identified a 'Champion for Children and Young People' to liaise with, inform and advise the Ministerial Sub-Committee on Children and Young People to help drive forward agreed policy. The 'Champions' also raise awareness at Departmental Board level to encourage departments to ensure children and young people's interests are fostered and their views sought on policy and strategy issues. However, the effectiveness of engagement with Children's Champions has been very much down to relationships with the individual champion (Byrne and Lundy, 2013b).

*'[T]he work that we have been doing during the past three years in relation to children's rights is actually drawn from this [research]. And, as a consequence of that, the OFMDFM are looking at children's rights indicators. And they are also doing this from the perspective of different clusters of rights and the UNCRC in terms of the report of the State [UK] to the UNCRC in January 2014. (CEO)*

In addition to that, one of NICCY's other projects – Children's Rights Legislation – has emerged from this study.

### ***Make It Right Campaign***

During this campaign, 12 policy briefings were published throughout 2010 to mark the 20<sup>th</sup> anniversary of the UNCRC. These drew from NICCY's review of children's rights in Northern Ireland (2008b), and its review on the UNCCRC's Concluding Observations on the UK Government's Report in 2008. The purpose was to support children and young people to campaign for government action to address key children's rights violations in NI (NICCY, 2010a).

This campaign encouraged children and young people to contact government, develop their own campaigns and help make sure that the issues that affect children day-to-day are listened to and valued by decision makers and to make sure that the promises of the UNCRC are delivered. Issues included:

- 1) Child poverty

- 2) Supporting families
- 3) Making communities safer
- 4) Children having a say
- 5) Newcomer children
- 6) Play and leisure
- 7) Children with disabilities
- 8) Children and care
- 9) Children and education
- 10) Children's mental health
- 11) Youth justice
- 12) Protecting children

These areas have formed the basis of the Commissioner's advice to the new NI Executive following elections to the Assembly in May 2011. The Commissioner has met with Ministers, civil servants, government advisors and political representatives to provide an overview as to the critical child's rights issues and to advise them as to what they should include in their Programme for Government 2011-15. In this way, children and young people's messages were delivered to government by NICCY (NI Assembly, 2010).

Evaluation of the campaign, along with the evidence gathered, helped NICCY to develop its next three year Corporate Plan (2011/14). Feedback to date would seem to indicate that, when asked, child participants have reported an improved understanding of the UNCRC and who to contact if they feel their rights are being breached (NI Assembly, 2010).

Evidence would suggest that cross-function working between NICCY's staff has improved and that the 'Make It Right' campaign was the catalyst for this. As the follow-up of the project and throughout the 2011-14 corporate plan, NICCY has monitored the actions of government in relation to Make It Right's calls to actions (OFMDFM, 2010). Outcomes of Make it Right campaign were used as an input for two other activities, the Children's Rights Bill and Goods, Facilities and Services (GFS).

### ***Tackling Child Poverty***

In 2006, NICCY commissioned analysis of public expenditure that revealed Northern Ireland is under-spending on children. In England, £402 per child is spent on personal social services; in Wales, the figure is £427; in Scotland, it is £513; and in Northern Ireland it is £287 (Economic Research Institute for NI and the Institute of Fiscal Studies, 2006).

NICCY's Make It Right briefing on tackling child poverty outlined key information on the extent of child poverty in NI, and the impact it has on children's lives. It called on the UK Government and NI Executive to put in place a range of actions to ameliorate the impact of poverty and to meet their commitments to eradicate child poverty by 2020 (NICCY, n.d.).

After the introduction of welfare reform proposals, NICCY was concerned that the situation for families already facing hardship could worsen and lead to even more children living in poverty. Therefore, it commissioned research on welfare reform – on the likely impact of proposals on children in NI (Horgan and Monteith, 2012) and on the implications of 'parity' in relation to how much the NI Executive could vary from what was being implemented in England, Scotland and Wales (Fitzpatrick and Burrows, 2012).

According to the Head of Policy and Research Team, *'An example of impacting legislation by NICCY is the Welfare Reform Bill. Prior to that, children were not mentioned in debates about the Bill. We have a separate Bill going through the Assembly and some organisations are using that info. So, impact of it may be tiny, but we raised awareness about the children's situation'*.

The Children's Rights Impact Assessment (CRIA) examines the impact of welfare reforms on children and young people and their rights. The most relevant articles of the CRC for this CRIA are articles 2, 3, 4, 6, 12, 16, 19, 23, 24, 26, 27 and 28 (Horgan and Monteith, 2012).

NICCY also commissioned research on children's budgeting in NI. This examined the process for allocating government budgets in NI and considered how the allocated funding results in the delivery of services for children and young people through the use of two case studies in relation to: a) social care provision for young people with learning disabilities transitioning from child to adult services, and b) spending on childcare under the Childcare Strategy in NI (Sneddon, 2014).

Despite these research reports, child poverty levels in NI continue to be among the worst in the UK. The Commissioner has reiterated her concern at the lack of effective government action to address the issue of child poverty: 'I'm extremely concerned by the high levels of child poverty in Northern Ireland, and recognise that they are particularly high in North and West Belfast, Derry (Foyle) Newry & Mourne and Strabane... Poverty is a deep rooted problem and it is my job to monitor and hold Government to account if they are not meeting the challenge of eliminating child poverty and I will continue to address this with them' (Community NI, 2013).

### ***Children's Rights Legislation***

The Bill of Rights process in NI emerged as a component of the 1998 Good Friday Agreement. Following a stop/start process spanning a period of almost 10 years, the NIHRC submitted its advice in December 2008. In its response in 2009, however, the NI Office did not propose any new rights for children, stating that ‘the Government does not consider that the ...proposals made by the NIHRC [in respect of children] meet the criterion set out in the Agreement that the provisions in a Bill of Rights should ‘reflect the particular circumstances of Northern Ireland...’.

While the protection and welfare of children are of the highest importance in NI, they are of equal importance across the rest of the UK (Lundy et al., 2012).

This is in spite of research that demonstrated the negative impact of the conflict on many children and young people in NI and that in its 2008 concluding observations, the UNCCRC had recommended strengthening children’s rights through a British Bill of Rights.

As stated by Lundy et al (2012), in 2010, the Coalition Government set up a Commission to consider whether to create a UK Bill of Rights to complement or replace the existing Human Rights Act. In its most recent consultation paper in 2012, the Commission asks whether the Bill should cover children’s rights which could include incorporation of the CRC into UK domestic law. Thus, the Children’s Rights Bill project began in 2012 and remains ongoing.

According to the Commissioner, the following activities have acted as an input for this project:

- Children’s Rights Review (NICCY, 2008b)
- Make It Right/
- Barriers report
- QUB Options Report (Byrne and Lundy, 2013a)
- Creation of a children’s rights implementation group comprised of NGOs and academics (CRIG)

NICCY has organised a conference and training workshops for the CRIG and politicians. As reported by the Commissioner, the impact so far has been ‘*raised awareness and buy-in from Government*’.

QUB’s Options Report is based on Lundy et al.’s (2012) comparison work on legal implementation of the CRC in 12 countries which concludes that children’s rights are better protected – at least in law, if not in practice – in countries that have given legal status to the CRC in a systematic way and have followed this up by establishing the necessary systems to support, monitor and enforce the implementation of the CRC right. They have advised NICCY that the best way to incorporate the CRC into domestic law is by passing a Child Rights Bill.

The Commissioner hopes there will be no need to have a Commissioner for children and young people after incorporation of the CRC:

*All of what we do are building blocks for the incorporation of the CRC to be made possible. After the incorporation of the CRC into legislation, the Government will mainstream children's issues. So, there is no need for a Commissioner for Children and Young People...It's not [only] about incorporating, but also implementing and acting upon that, and that's mainstreamed through government and it becomes an automatic process. There won't be a need for me as a champion...and that's the ultimate aim and dream that you would want, maybe 15-20 years down the line.*

## **Appendix 20: Lapsiasia and NICCY's Projects to Address Particular Issues**

### ***Corporal Punishment***

Since 2002, physical punishment within the family has been the subject of regular debate regarding a change in the law, in all parts of the UK. Nevertheless, all legislative changes made have fallen short of the standard required by the UNCCRC. In 2008, the Committee recommended that government should, as a priority, prohibit corporal punishment in the family (including repealing all legal defences), actively promote and provide training on positive and non-violent forms of discipline (para 42) and increase assistance to parents and guardians in their child-rearing responsibilities (para 45) (UK Children's Commissioners, 2008).

A relationship has been shown in several countries whereby communities struck by violent conflict have a higher risk of domestic violence. What happens in the streets tends to have a chain reaction in the homes, and it may be assumed that this applies to Northern Ireland (Hammarberg, 2007).

The adoption of a law clearly banning corporal punishment is seen as a first step to prove the willingness of society to stop violence against children. A law sends an important signal, but should be supplemented by educational and other means to secure a safe upbringing. Parenting should be supported in the best interest of the child. (Bunting et al., 2008)

In 2006, the Secretary of State for NI decided to extend Section 58 of the Children Act 2004 to NI via the Law Reform Order 2006. Article 2 of the Order provides for the physical punishment of children and brings the law in NI into line with that in England and Wales. Nigel Williams disagreed with Lord Rooker's proposal to bring NI in line with legislation in England and Wales, which has changed but not removed the defence of 'reasonable chastisement' (NICCY, 2006). In 2007, a court rejected the NI Commissioner for Children and Young People's application for judicial review of this decision.

The new Commissioner decided to appeal the court's ruling and continues to believe that the current law is in breach of children's rights under Articles 19 and 37(a) of the UNCRC, and Articles 3, 8 and 14 of the European Convention on Human Rights.

The Commissioner explained:

*'We went for a judicial review, but it was delayed as we needed a victim status. I can take a class action case, but they wanted me to take an individual child to court; but I wasn't prepared for that. So, we identified a gap in NICCY's legislation and, at the moment, we are reviewing our legislation and have been requesting to be given victim status to act on behalf of them. As the Judge said*

*that our argument was strong but the issue was that we did not have the ability to take it.*

However, in 2008, the Commissioner decided not to take the case forward to the House of Lords. One of the main reasons was her legal funding. The biggest issue was about resources due to the obligatory efficiency savings that public bodies had undergone (NICCY, n.d.d). In its following year's plan, NICCY focused on production of the policy paper on physical punishment and contributing to campaigning on positive parenting (NICCY, 2009b).

One of the stakeholders interviewed for this research (from an NGO) argued that the Commissioner should have insisted on amending NICCY's legislation with regard to victim status and taken the case to EHRC in NICCY's name.

NICCY has also produced research on corporal punishment. In 2006, NICCY's Policy and Research Team started examining how often corporal punishment takes place, attitudes to physical punishment, and the ways that parents can be supported in developing alternative methods of disciplining their children (NICCY, 2006). In 2008, NICCY, the NSPCC(NI) and Barnardo's(NI) undertook a comprehensive review of the literature in this field in order to better understand the prevalence of physical discipline. The review encompassed a wide range of literature which looked at an assortment of different practices and behaviours. Results indicated that half of parents in NI (47%) had used some form of physical discipline. Financial pressures at the lower end and work-related stress at the upper end may influence the relationship between physical discipline use and income. Also, parents from a Protestant background are more likely to use physical discipline than those from a Catholic background (Bunting et al., 2008).

A stakeholder from an NGO thought that *'NICCY should hold duty bearers to account to deliver effective policies re 'positive parenting' because it is obviously the other side of the coin. They should not only do research about this issue. Research has been done on this subject and additional research won't be of any help for children and young people. NICCY could have also acted as persuaders with politicians to give effect to research already undertaken'*. Another participant from the same sector stressed the legislative work to be done on banning corporal punishment as it provides a firm basis for parenting education.

In 2014, NICCY and an NGO were planning to gather children's experiences of corporal punishment and report to the UNCCRC. NICCY were also planning to engage with young people more as *'It'll become much powerful if children go out and raise their issues themselves. Young people, for example, asked the Minister if they would smack their own children. That is what adults won't ask to be polite, but it has a better impact when asked by young people and provoked a thoughtful response.'* (A member of the Participation Team)

Finland, as Molander (1994: 575) writes 'is one of the five countries that, in 1984, passed legislation prohibiting all violence against children, including corporal punishment. Corporal punishment in schools has been prohibited in Finland since 1914. In this respect Finland was a pioneer among the Western countries'.

In 2005, the Central Union for Child Welfare studied the attitude of Finns towards corporal punishment of children; 2030 Finns aged between 15 and 79 were interviewed. Although corporal punishment of children has been prohibited in Finland since 1984, one third of participants took a permissive view of it. Furthermore, almost one fifth of those aged between 15 and 45 who did not have children at the time of the interview intended, either certainly or probably, to use corporal punishment as a method of upbringing if they had children. Over 90% of interviewees were aware of the fact that corporal punishment constitutes an assault. Studies of victims targeted at school children reveal that corporal punishment is actually being used in Finland. Similar views were also observed in various online discussions on upbringing. It was found that experiences of violence often correlated with other disadvantages such as substance abuse by the child or parents and a lack of parental supervision (Central Union for Child Welfare, 2005).

A poll conducted by the Central Union for Child Welfare in 2007 showed that 26% of Finns still approved of corporal punishment of children in exceptional cases. According to the child victim study published in 2008, about 35% of all 9<sup>th</sup> grade pupils had had their hair pulled at some time in their lives. Some 10% had been shoved, pushed, shaken, slapped or whipped at some time in their lives (Lapsiasia, 2011).

In 2009, the Ministry of Social Affairs and Health (in charge of children's welfare) set up a working group to draw up a proposal for a national plan of action to prevent and reduce the corporal punishment of children. The programme aims to continue and add momentum to the positive development that has taken place in Finland over the past two decades so that attitudes against corporal punishment will be consistently strengthened among both children and adults and that corporal punishment experienced by children will be reduced continuously (Lapsiasia, 2010b).

In 2010, the Ministry presented a National Programme for 2010-2015 to prevent and reduce the corporal punishment of children and young people. The programme was to be jointly implemented with NGOs and other parties working on children's issues. In connection with the preparation of the anti-corporal punishment programme, Lapsiasia conducted a survey (Don't Beat the Child!) among children and young people in which they were asked their opinions about the best ways to reduce corporal punishment and how they would like to obtain further information about the programme. A total of 370 children over the age of seven responded, but it turned out that it was not easy for victims of corporal punishment to talk about their experiences (Lapsiasia, 2010b).

Children thought that parents with alcohol consumption, mental health and financial issues should be given more help to prevent them from venting their frustrations on their children. Children wanted to receive more child-friendly information on the subject, especially at school and online. Children were observed as lacking awareness or confidence in social services available to them. The results of the survey were utilised by the Committee set up by the Ministry of Social Affairs and Health to draw up proposals for the reduction of corporal punishment in Finland (Ministry of Social Affairs and Health, 2011).

Based on the results, the working group of the Ministry (which included Lapsiasia) recommended that families with children should be offered support and assistance as early as possible, to prevent parental exhaustion and potential mental health problems. Increasing children's confidence in services and the adults who provide them was suggested. It was recommended that student support staff, such as school health nurse and social workers be known by the children. Increase in internet literacy for children was also advised (Lapsiasia, 2010a).

The Ombudsman has also been warned by NGOs that *'parents still think some 'mild' kinds of corporal punishment are OK. Lapsiasia has given weight to the message that 'all' kinds of CP should be avoided' and 'corporal punishment has declined a lot, however, we don't know much about children's lives at home and parents' awareness of children's rights.'*

This project shows that even when legislation is good for children, there needs to be a champion who constantly monitors its implementation. That is why, even after the incorporation of the CRC into domestic law, IHRICs will still need to exist.

### ***Deaf and SEN Children***

NICCY has focused on SEN matters as individual complaints were received and *'the sector were coming to NICCY about the SEN issues and we were helping because they felt that we had more powers to take that issue and make a change along with their voices. So, NICCY took a lead and put a steam on the issue. It's good for us if we can go to Ministers and reflect the collective voices of the sector to them...but also the sector recognises that together, we can have a greater impact'* (Commissioner).

In 2010, the Department of Education consulted NICCY about the SEN proposals prior to presenting them for legislation. Thus, there was an opportunity that there was a consultation going on and also there were cases coming to them.

According to the Head of Policy and Research, throughout 2009-13 NICCY and its stakeholders that worked with SEN children had discussions with the Department of Education and published a consultation report. Also, public was made aware through media and as a result, more parents contacted the Legal and Investigations team. The impact so far has been: (i) improved reputation

of NICCY; (ii) working with other stakeholders; (iii) the agreement of the Department of Education to make several significant changes to the SEN proposals.

*In Finland, there are so many issues there for deaf children, parents and medical professionals. Professionals want to force children to have implants but deaf parents think sign language is their culture. Some parents try to fight and avoid implants and speak with sign language. There are also some cases where children want the implants but their parents don't.* (A member of Lapsiasia's staff)

In order to defuse these tensions and convert them into a resource for co-operation in the interests of deaf and hard-of-hearing children and families, Lapsiasia decided to conduct research. In a survey with deaf and hard-of-hearing children in 2011, almost 90 children and 48 parents were interviewed by two researchers, one of whom was deaf and signed in the Finnish language. A short questionnaire was circulated among the medical units responsible for aural rehabilitation at Finland's central university hospitals. Some were bilingual, which means that they used both speech and sign language, while others relied mostly on sign language.

The interviews, conducted by two researchers one of whom was deaf herself (Maarit Widberg-Palo and Irja Seilola), demonstrate that despite the different forms of communicating and different languages, the children have a lot in common: the majority of the interviewed children want to interact with their surroundings. They want to be understood and kept informed about what is happening around them. Deaf and hard-of-hearing children want to be treated the same as other children and not be defined by their hearing ability. This is why it is important for adults to appreciate different ways of communicating and interacting.

In the interviews, parents talked about tensions that have developed between professionals and parents regarding the choice of language and hearing aids. Aural rehabilitation professionals called attention to advances in hearing technology and medicine which now give children a wider choice of communication tools. Today, almost all children who are born severely hard-of-hearing are fitted with a cochlear implant, an electronic device that stimulates the auditory system, enables partial hearing and allows children to develop speech. The cochlear implant represents a significant medical breakthrough, but it still does not always guarantee equality for hard-of-hearing children in the hearing world.

For children who communicate in sign language, the challenge arises from the language skills of the hearing world around them, their friends, acquaintances and teachers, as well as access to an interpreter; this applies equally to deaf and hard-of-hearing children and to hearing children of deaf parents. Sign language has official status in the Finnish constitution. Most children study at their local schools.

Based on the findings of the survey (Kiili and Pollari, 2012), Lapsiasia organized a workshop for all the actors in the field - many of them met for the first time and it produced some conversations between different parties. As a result of the project, *'deaf children's voices are now more paid attention to by authorities and medical professionals. They did not have respect for Lapsiasia as an important authority for children before'* (A participant from NGO sector).

Lapsiasia also involved two young deaf advisers of Lapsiasia in the project. Their message to other deaf children was: *'Talk about your life as deaf or hard of-hearing persons. By sharing your experiences, you can inform and influence decision-makers'* (Kiili and Pollari, 2012). The Deaf Child project also *'impacted across borders. Sweden is very interested in doing this project there and also the Roma and Sami project'* (the Ombudsman).

This was a real interpretive, in-depth study of different parties to the argument about culture and communication. However, it could be questioned whether the outcomes and numbers of children involved justify giving such priority to the project from an Office with such limited resources. In 2013, there were about 1000 deaf children in Finland, 320 of them were Cochlear implant (CI) users (Lapsiasia, 2013c). So, less 0.1% of children are deaf and only 32% of those children use implants. The National Deaf Children's Society (an NGO in NI) questioned the priority of such a project as only 10% of deaf children are born with deaf parents (to have cultural arguments about implant and sign language) and those implanted have had it at a very early age so could not have a say at that time.

### ***Teenage Suicide***

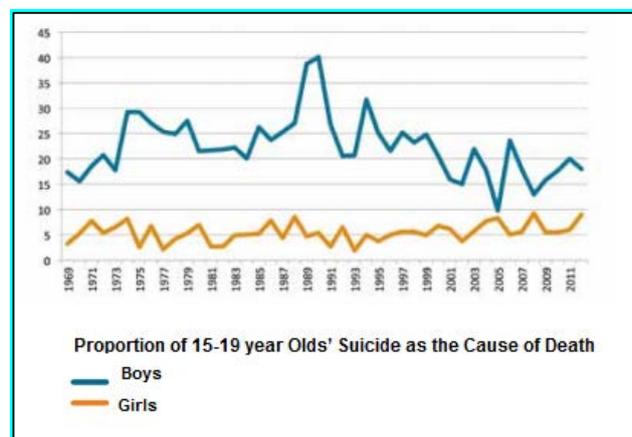
In NI while up to 20% of those under 18 have a mental health issue, the proportion of expenditure on child and adolescent mental health services is less than 5% of the entire mental health budget. In spite of a detailed government-funded review which identified limited and geographically inequitable mental health services, no progress has been made to develop a corrective resourced action plan. NI continues to experience higher rates of suicide among adolescents and young adults than other parts of the UK, which might be due to adverse poverty and other impacts of conflicts (NI Assembly, 2010).

In 2007, the Commissioner held a conference called 'HOPE', which was run by young people for young people and focused on suicide. As an outcome of that, many young people created a message for the Minister for Health by sending him a postcard. Since then, NICCY has worked very closely with some of the organisations that deliver support to young people in communities (NI Assembly, 2010). In addition to that, *'Make It Right campaign's theme for October [2011] was mental health. The big issue coming from young people was the stigma around mental health, the fear of talking about it and not being able to be open and honest about it. One of the biggest issues was the suicide of young males'* (Commissioner).

In undertaking work with the Health and Social Care Board, NICCY has been concerned to assess whether reviews on the causes of death in children and young people highlight groups which are particularly at risk. The documented significant number of adolescent deaths due to suicide led NICCY to commission the ‘Still Vulnerable’ report in order to further explore this complex and sensitive area.

In 2012, Queen’s University Belfast in conjunction with the NSPCC examined the growing evidence base on the enduring impact of adverse experiences on children’s lives, such as child abuse, domestic violence, parental substance misuse or mental health difficulties and the loss of a parent. The ‘Still Vulnerable’ report pays particular attention to the relationship between children’s exposure to multiple adversities and their reduced resilience and increased vulnerability in adolescence, which is associated with poor outcomes in later years, including suicide in teenage years. The research, presented to OFMDFM in 2013, introduced an assessment tool for adversity of vulnerability of children and young people in difficult situations. According to the Commissioner, this tool is going to be piloted by one of the health centres in NI.

In Finland, suicide as the cause of death for 15-19 year old teenagers, typically boys, is among the highest in the OECD countries. In 2012, 30 boys and 14 girls committed suicide. However compared to the 1990s, the situation has improved (Aira et al., 2014).



**Figure 1.** Teenage suicide in Finland between 1960 and 2011 (Aira et al., 2014).

The suicide rate among Finnish underage young people has decreased since the early 1990s. On the other hand, the number of both boys’ and girls’ suicides increased between 2005 and 2008. In 2008, suicide was the cause of death for 24 (0.04%) underage boys (16 in 2005) and 17 (0.03%) girls (15 in 2005). The suicide rate among girls in particular is high by international standards.

Lapsiasia has been advised by ‘*the national health and welfare institution of the Social and Health Ministry that in Finland, incidents of teenage suicide are not considerable, but compared to other causes of death, many of them are due to suicide in teenagers. The ‘indicators’ project will show us more about this in the future*’ (A member of staff).

According to an academic stakeholder: *'Different bodies in Finland have worked a lot to get up with mental problems cured at early days but, no single organisation can prevent suicide. It's deeply in our culture and due to solitude, rapid industrialisation, lack of counselling and social services and dealing with it is a big national project'*.

The Ombudsman admits that they *'haven't done so much here in this office. We did a small leaflet with information about suicide in 2007'*.

In spring 2011 Lapsiasia made the following recommendations to government:

- a) The Finnish Government should strengthen mental health services for children and adolescents and guarantee access to the examinations and treatment needed.
- b) The Finnish Government should intensify suicide prevention among boys and girls.
- c) The Finnish Government should monitor and supervise implementation by local authorities on child welfare clinics; and school and student health care
- d) The Finnish Government should enact a student welfare act providing for sufficient psychosocial services for all pupils in basic education and students in upper secondary education.
- e) The Finnish Government should ban the image marketing of alcohol (Lapsiasia, 2011b)

According to the Ombudsman, in 2011 legislation came into force to guarantee children and young people's access to examinations and treatments needed. However, it has not been implemented in every municipality yet, and emphasis has been put mostly on mental health services and improving school and family environments. The Institute of Health and Welfare has planned a special programme for suicide prevention but it has not come into force yet. The Safety Investigation Authority of the Ministry of Justice has been more active and has produced investigation reports on the causes of death among children and recommendations based on that. Monitoring the follow-up of young children and students' health has improved.

Besides, a new student welfare Act came into force in 2014 which improves students' access to school psychologists and social workers (marked as important progress by the Ombudsman). A new law was introduced in 2014 that restricts marketing of alcohol (this process took many years, as the alcohol industry had influential lobbies).