

‘Children’s Rights’

Keynote address to Legal Wales Conference. Cardiff. 9 October 2026

Introduction

1. Prynawn da. Thirty-five years ago, the United Kingdom ratified the United Nations Convention on the Rights of the Child (‘the UNCRC’). At the time, few could have predicted the extent to which its ideas would come to influence the way we think about children, public services and justice itself.
2. Yet those ideas raise profound questions. What does it mean to listen to a child? How should a child's voice influence judicial decision-making? Can a legal system be genuinely child-centred if children themselves remain largely unheard? Wales has been at the forefront of addressing those questions.
3. It is in this respect that I shall briefly address three connected developments this afternoon: Wales's distinctive commitment to embedding children's rights in public decision-making, the influence of the Convention more widely, and the role of children’s rights in the emergence of the Child Focused Court. Taken together, they reflect a significant shift in family justice: from seeing children primarily as the subjects of proceedings to recognising them as participants with rights, voices and dignity of their own

UNCRC

4. Let me start with the UNCRC itself. Adopted in 1989 and ratified by the United Kingdom in 1991, it is the most widely endorsed human rights treaty in the world. It articulates the civil, political, economic, social and cultural rights of every child and young person under the age of 18.
5. Its provisions are wide-ranging. They protect children from discrimination, recognise their right to life and identity, and safeguard family relationships. For

present purposes, however, two articles stand out. Article 3 requires that, in all decisions concerning children, their best interests must be a primary consideration. Article 12 provides that children capable of forming views have the right to express them freely in matters affecting them, and to have those views given due weight according to their age and maturity. It further requires that children be afforded the opportunity to be heard in judicial and administrative proceedings affecting them.

6. As a matter of international law, the United Kingdom is bound to respect and implement the Convention. Although the UK Parliament has not incorporated the UNCRC wholesale into the laws of England and Wales, its principles – as I shall address in more detail shortly – have long informed judicial reasoning and continue to provide an important interpretative framework for the courts.
7. Wales, however, has taken a different path.
8. You need no persuading of the importance of the Convention. What is striking about the Welsh experience is not simply that the UNCRC has been acknowledged, but that Wales has sought to weave the Convention into the fabric of public decision-making.
9. The *Rights of Children and Young Persons (Wales) Measure 2011* was, in constitutional terms, a bold step. Wales became the first part of the United Kingdom to place a statutory obligation upon Ministers to have due regard to the Convention when exercising their functions. That may sound modest. It is not.
10. The Measure did not directly incorporate the Convention into domestic law, nor did it create a free-standing right for children to challenge every decision said to be inconsistent with the UNCRC. Rather, it sought to change the process by which decisions are made. It requires those exercising public power to pause and

ask a different question: what impact will this decision have upon children and their rights?

11. That distinction matters. The 2011 Measure recognises that children's rights are often lost not because decision-makers are actively hostile to them or uncaring, but because children are simply not seen. They are affected by decisions taken about a wide range of relevant issues – housing, transport, education, social care, health provision and public expenditure, yet their interests can easily become subordinate to competing adult priorities. The Welsh approach seeks to ensure that children are visible within those discussions from the outset rather than as an afterthought.

12. Three years later, the *Social Services and Well-being (Wales) Act 2014* carried that philosophy further. Section 7 requires those exercising functions under the Act in relation to children to have due regard to the relevant provisions of the Convention. Significantly, this is not confined to broad questions of policy. It applies within the day-to-day delivery of services affecting some of the most vulnerable children in society.

13. Taken together, these measures represent something more ambitious than legislative reform. They reflect an attempt to move from a welfare model alone towards a welfare model informed by rights. The distinction is important. Welfare asks what outcome would best serve the child. A rights-based approach asks an additional question: has the child been treated as an individual whose views, dignity and autonomy deserve respect in the decision-making process itself?

14. This has had practical consequences. Child Rights Impact Assessments have become a routine part of legislative development here. Children's participation has become embedded in areas of policymaking where, historically, their voices might not have been sought. Officials, schools, local authorities and public

bodies increasingly operate within a framework in which consideration of children's rights is expected rather than exceptional.

15. It is naturally tempting to ask whether incorporation has produced quantifiable improvements in children's lives in Wales. That is an entirely legitimate question, but perhaps not the only one, and it is in any event, a difficult one to answer.

16. The welfare and life chances of children are shaped by a multitude of factors: family relationships, education, housing, poverty, health, community support and economic opportunity. It is therefore notoriously difficult to isolate the effect of any single legislative intervention. Yet legislation of this kind performs an important function. It shapes institutional culture. It influences the questions that are asked. It changes who is consulted. It alters the assumptions that underpin decision-making.

17. In that sense, the Welsh experience may be important less because it guarantees particular outcomes and more because it changes the conversation. It signals that children are not merely the objects of care, concern or protection. They are citizens, rights-holders and participants whose interests must be consciously considered whenever public power is exercised.

18. For those of us working within family justice, that shift is of particular relevance. Family law has long been concerned with children's welfare. The language of rights does not displace welfare, nor should it. Rather, it enriches it. It reminds us that children are not simply the subject matter of Family Court proceedings between adults. They have perspectives, experiences and entitlements of their own. The Convention therefore encourages us to look not only at what decision is made for a child, but also at whether the child has been properly heard and respected in the process by which that decision is reached.

19. Scotland has followed suit. After a false start (I refer here to the challenge brought to the first draft Bill and its purported reach beyond the competence of the Scottish Parliament)¹, the UNCRC (Incorporation)(Scotland) Act 2024 ('the Incorporation Act 2024') came into force in July 2024, operating within its devolved competence. As in Wales, Scotland's Incorporation Act 2024 applies in relation to relevant devolved functions only where they derive from devolved authority; that is not always straightforward. But illustrative of its application, earlier this year, the UNCRC was successfully invoked in a children's hearing² relating to sibling contact, where it was held that the failure to consider, as a primary consideration, the best interests of a sibling who was not the subject of the application before the court was a breach of the UNCRC requirements. This case made visible children affected by court decisions but who are not the formal subject of those proceedings.

20. The Scottish Parliament's 2025 report on the UNCRC notes that incorporation is indeed influencing committee practice, research, participation and public engagement³. One Scottish human rights lawyer and former Children and Young People's Commissioner for Scotland has recently observed:

"Two years on, the [Incorporation Act 2024] is beginning to do what incorporation was designed to do. It has changed the law. It has opened new routes to accountability. It has required public authorities to think differently. It has brought children's rights into areas of public life where they were too often absent. The early cases show courts willing to take the Act seriously, even while grappling with its complexity."

Re DM

¹ *Attorney General's Reference, United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill*, Re [2021] UKSC 42

² *Petition of X for Judicial Review* [2026] CSOH 15.

³ *The UNCRC in Scots Law: 2 years on* [2026] Fam Law 879 [Bruce Adamson FRSE]

21. As I have said, the UNCRC has not been embedded in English legislation in the same way as it has in Wales and Scotland. That is not to say that it has not been regularly referenced in English caselaw, as an aid to interpretation, and certainly to supplement arguments around children's rights. There are many examples in speeches and judgments of the House of Lords and the Supreme Court respectively of reliance being placed on the Convention - across a range of topics... immigration⁴, article 8 and family life⁵, adoption and care proceedings⁶, child abduction cases under the Hague Convention, and privacy matters involving children⁷. Baroness Hale was an unsurprising champion, but by no means the only one in the UK highest court.

22. Only last month, indeed, the Supreme Court handed down its judgment in an international child abduction appeal known as *DM*; a father had sought the return of his two children aged 8 and 14 to the USA from Scotland. The facts are not of great importance for the points I wish to emphasise. The 14 year old had expressed the clear view that he wished to return to the States notwithstanding the grave risk of psychological harm which may eventuate if he did so – specifically the real risk of his mother killing herself.

23. When the matter came to the Supreme Court, the principal issue was this – 'Can the voice of a child (in this case the 14 year old) be taken into consideration when assessing whether there is a grave risk that return of that child to a different country would expose him to psychological harm or otherwise place the child in an intolerable situation (the article 13 Hague Convention 1981 test)'? Materially, when answering that question in the affirmative the first place to which the Supreme Court justices turned (at [86]) was to article 12 of the UNCRC. They then went on further to draw on the speeches delivered in a number of House of Lords and Supreme Court decisions, stretching back 20 years, namely *re D (A Child)*

⁴ *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4

⁵ *Christian Institute v Lord Advocate* [2016] UKSC 51

⁶ *Re B (A Child) (Care Proceedings: Appeal)* [2013] UKSC 33,

⁷ *PJS v News Group Newspapers Ltd* [2016] UKSC 26

*(Abduction: Rights of Custody)*⁸, *Re M (Children) (Abduction: Rights of Custody)*⁹ and *re E (Children) (Abduction: Custody Appeal)*¹⁰. In each of these appeals, Baroness Hale had spoken explicitly of the importance of meeting our (UK) international obligations under Article 12 of the UNCRC. It was to those specific passages which Lords Stephens and Snowden turned in their judgment. Those earlier decisions were all English appeals, underlining that it is immaterial for present purposes that the requested state in *DM* was Scotland and not England.

24. The Supreme Court rightly observed ([91]) that while there is no obligation on the child to express a view, there is nonetheless a presumption that the child will be given an opportunity to be heard in such cases. The court then went on ([94]):

“... whether it is appropriate or inappropriate for the child to express a view on an issue is a matter for the judge to decide: though we would suggest that latitude should be exercised in favour of hearing from the child. The voice of the child should not be stifled by an overly paternalistic approach. Generally, it is in a child’s best interests to respect and promote their autonomy to the extent that the child’s maturity dictates by allowing the child to express a view”.

25. The ultimate views of the Supreme Court justices on the central issue could not have been clearer. H’s views could and should be taken into account although they would not be determinative; ultimately those views were one factor in a multifaceted decision, which remained for the court to make. In short, H’s voice mattered.

⁸ [\[2006\] UKHL 51](#); [\[2007\] 1 AC 619](#)

⁹ [\[2007\] UKHL 55](#); [\[2008\] AC 1288](#)

¹⁰ [\[2011\] UKSC 27](#); [\[2012\] 1 AC 144](#)

26. This approach comfortably aligns with the direction of travel across family justice in both England and Wales. Children have their own voice, which can, and should, help to shape the court's understanding of the decisions made about them.

Child Focused Courts (CFC)

27. This leads me to the third area I wish to address this afternoon: the Child Focused Court.

28. You know this initiative well. The Family Court in Wales has already made a remarkable contribution to its development. North Wales hosted one of the original Pathfinder courts, and I remain deeply grateful to HHJ Gaynor Lloyd, then Designated Family Judge for North Wales, together with Nigel Brown OBE and Matthew Pinnell of Cafcass Cymru, whose vision, energy and commitment helped bring it into being.

29. I do not need to rehearse the history of the Child Focused Court model, nor to catalogue all of its advantages. The results speak for themselves. Before these reforms, the average time taken for private law proceedings in Wales to conclude was 34 weeks. Following the introduction of the Child Focused Court model, that figure had fallen to 14.5 weeks, a reduction of more than half and an achievement many of us would once have regarded as unattainable.

30. By providing the court with more information directly from and about the child at an earlier stage of the process, it is believed that more durable orders are being made, and that there will be fewer returning cases. Initial results in this regard are positive too.

31. Those achievements matter not simply because they demonstrate efficiency, but because delay itself has consequences for children. Childhood does not stand still whilst adults litigate. Time passes differently for a child. A year in proceedings may represent a significant proportion of a young child's lived experience.

Reducing unnecessary delay is therefore not merely an administrative objective; it is central to respecting children's UNCRC rights and promoting their welfare.

32. We do not often describe the Child Focused Court model in the language of children's rights. We tend instead to speak of welfare, participation and safeguarding. Yet the model can equally be understood as a practical expression of the rights guaranteed by the UNCRC.
33. Most obviously, it gives fuller effect to Article 12 by ensuring that children's voices are heard and taken seriously in decisions affecting their lives. It gives practical force to Article 3 by organising the court process around the child's best interests as a primary consideration. Through its emphasis on the early identification of risk and greater participation by victim-survivors of domestic abuse, it advances the protections contained within Article 19. More broadly, it seeks to reorientate proceedings to ensure that children are treated not as passive subjects of proceedings but as rights-holders whose experiences, perspectives and interests must remain at the centre of decision-making.
34. This rights-based approach reflects many of the key recommendations contained within *Assessing Risk of Harm to Children and Parents in Private Law Children Cases*, the Harm Panel Report, and *The Time for Change, the Need for Change, the Case for Change*, produced by the Private Law Working Group.
35. The model was considered in the Court of Appeal's recent judgment in *Re C*¹¹, the first appeal arising from proceedings conducted under the Child Focused Court framework; the decision appealed against was one made in the Family Court in Wrexham. Cafcass Cymru had prepared the child impact report. In that judgment I examined a number of broader issues raised by the inherently investigative nature of the model.

¹¹ [C \(Child Arrangements Orders; Domestic Abuse; Child Focused Court\), Re \[2026\] EWCA Civ 1216 \(29 September 2026\)](#)

36. Child Focused Courts have many supporters, but they have their critics too. I recognise, for example, that some have expressed concern that the more streamlined processes, and the greater emphasis on children's experiences, might come at the expense of proper scrutiny of domestic abuse – that justice may somehow be sacrificed in pursuit of speed. In my view, those concerns are misplaced.
37. The purpose of the Child Focused Court model is not speed for its own sake. Rather, it seeks to reduce unnecessary delay whilst simultaneously enhancing the ability of children and parents to participate meaningfully in proceedings. Care must always be taken to ensure that parties, particularly vulnerable parties and those without representation, can engage effectively in the process.
38. Equally, the identification, assessment and evaluation of domestic abuse remains a central task of the Family Court. A child's right to protection from violence and abuse is fundamental. But children possess other rights under the Convention too, and those rights must also be respected. Children are not best served by a system in which one consideration, however important, automatically displaces all others. The UNCRC itself recognises that determining what is in the best interests of a child requires a careful evaluation of the wide-range of individual circumstances of that child's life.
39. The question for the court is not simply whether domestic abuse occurred. Frequently, that question has already been answered. The more difficult question, and the one that ultimately confronts the court, is this: What arrangements now best protect and promote the rights, welfare and long-term interests of this child?
40. Human relationships are complex and children's lives are rarely susceptible to simple rules. The Family Court must often hold two truths in mind at the same time: first, that domestic abuse can have profound and enduring consequences for children; and second, that in some circumstances a child may nevertheless

derive benefit from a continuing relationship with a parent who has been abusive. The existence of one truth does not automatically extinguish the other. Article 3 of the UNCRC requires us to grapple with precisely that complexity. It demands an assessment not in the abstract, but of the particular child before the court. This was the issue in *Re C*.

41. That is why one of the dangers in discussing domestic abuse and its prevalence in Family Court process is the temptation to speak about children as though they experience it in the same way. They do not. Children differ in personality, resilience, maturity, understanding and support. Some become withdrawn. Some become angry. Some become anxious. Some appear outwardly unaffected whilst carrying significant emotional burdens beneath the surface. Age matters: a teenager's experience of domestic abuse may be profoundly different from that of a six-year-old child. An older child may understand far more of the family dynamics but struggle with divided loyalties and conflicting emotions. A younger child may lack that understanding yet still experience insecurity, fear and distress. Even siblings raised in the same household can emerge with markedly different experiences and needs. Some are 'dandelions' (resilient, hardy, independent), some are 'orchids' (sensitive, vulnerable to adversity and only thrive in supportive spaces)¹². Orchid children are not "broken" or "failed dandelions"; they simply possess a different biological makeup that requires a more thoughtful, tailored environment to reach their full potential.

42. A genuinely child-focused and rights-respecting assessment therefore requires nuance. It requires us to see the individual child rather than a category of child.

43. One of the enduring messages from *Re C*, I suggest, is that respect for children's rights requires individualised decision-making. The welfare assessment must be rigorous, careful and evidence-based. Above all, it must remain focused on the

¹² The Orchid and the Dandelion by Dr. W. Thomas Boyce

particular child before the court. Children's rights, no less than their welfare, require this.

Conclusion

44. So let me summarise where I think we have got to. Family judges make decisions of profound and lasting consequence for children. Every day, across England and Wales, courts determine where children will live, how they will maintain relationships with those who matter to them, whether they can be protected from harm, and, in the most serious cases, whether they should be adopted, undergo medical treatment, or be deprived of their liberty. Our involvement may conclude with the making of an order. The consequences for the child do not. The consequences may endure throughout childhood and well into adult life. The responsibility which that places upon us is therefore immense.

45. The thread running through all that I have discussed this afternoon is a simple one. The UNCRC has helped to change how we think about children across the United Kingdom. It asks us to see them not merely as the subjects of decisions made by adults, but as individuals with rights, voices, dignity and interests of their own. It has influenced judicial reasoning in England for many years. In Wales, however, it has done something more. Through legislation, policy and practice, Wales has been at the forefront of demonstrating how the Convention's principles can be embedded more formally in public decision-making and in the everyday work of family justice.

46. We can see that influence in the Welsh commitment to 'due regard' duties; in the determination to hear and respect the voices of children; and in the development of the Child Focused Court, a model which has attracted attention far beyond Wales and helped shape reform across the whole jurisdiction. Wales has not simply participated in the evolution of thinking about children's rights within the United Kingdom. It has helped to lead it.

47. The principles of the Convention are as I have said reflected in legislation in England, have informed the development of the common law, and continue to influence judicial decision-making at every level. The question is therefore not whether children's rights matter within English law. Plainly they do. Yet, as Scotland and Wales continue to develop their own models, and as new questions emerge concerning children's lives in the digital world, the protection of their privacy, wellbeing, safety and the climate and future environment, it may be legitimate to ask whether there should be a wider conversation on giving more explicit domestic expression to the Convention's principles. I do not propose an answer to that question today. But it is, perhaps, a debate whose time may be approaching.

48. For the present, there is much of which Wales can be proud: its enduring commitment to children, its willingness to innovate, and its contribution to the development of family justice. Wales can and should be proud of its judges, practitioners and professionals whose work has helped place children more firmly at the centre of decision-making.

49. For that leadership, and innovation, I am deeply grateful. Diolch yn fawr.

[End]