

Access to justice for children and young people in Aotearoa New Zealand

Working paper No. 17 - Law-related education for children and young people

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Author: Jennifer Braithwaite LLM (Hons), MSCL (Hons)

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Context

This working paper considers the role of law-related education for children and young people in closing the justice gap. It forms part of an overall research project exploring the extent to which children and young people are able to access justice in Aotearoa New Zealand. The findings of the research study are presented in three parts:

Part One contains my analysis of data from key informant interviews with adults with expertise in the justice system and/or working with particular groups of children and young people, as well as from a survey of children and young people aged 14 to 24.

Part Two discusses the meaning of access to justice and other related concepts such as legal empowerment as well as the specific meaning of access to justice for children and child-friendly justice. It then discusses the justice problems experienced by children and young people generally, as well as common barriers to accessing justice. The analysis in this report is based on my review of the research and literature in New Zealand and overseas as well as analysis of information obtained from the government and Crown entities.

This report is supported by a series of ten working papers discussing the justice problems and barriers to accessing justice experienced by particular groups of children and young people and is broken up into a series of reports relating to groups identified as likely to experience differing justice problems or barriers to access. These working papers are:

1. Children and young people in care or with care experience;
2. Disabled and neurodiverse children and young people;
3. Tamariki and rangatahi Māori;
4. Pacific children and young people;
5. Rainbow and takatāpui children and young people;
6. Girls and young women;
7. Boys and young men;
8. Poverty and socio-economic disadvantage;
9. Trauma; and
10. Intersectionality.

Part Three explores possible solutions or ways to close the justice gap for children and young people in Aotearoa New Zealand. This part of the study is also supported by a series of working papers in relation to possible solutions. At the time of writing these working papers consider the following topics with additional working papers likely to follow:

11. Strategic litigation;
12. Legal service delivery, non-lawyer services, and integrated services;
13. Data, evidence and measuring change;
14. Technology;
15. Training for professionals;
16. Legal education and continuing professional development for lawyers and judges; and
17. Law-related education for children and young people.

The reports and working papers are available at: <https://www.cypaccesstojusticenz.com/>.

Introduction

As the Law Council of Australia explained in its 2018 report: ¹

Schooling is the primary method through which most societies prepare their participants to engage effectively in life. However, it is evident that many people emerge from school without the capability to engage effectively with the justice system. Many Australians, from all walks of life, often do not have the legal capability to recognise legal problems or to seek out proper assistance creating a significant barrier to effective interaction with the legal system. Building more legally capable citizens through civics education is an investment in law for life.

In Aotearoa New Zealand civics education is now taught in schools although its scope is fairly limited and it is questionable whether it would be able to achieve the goal of building more legally capable citizens. The Ministry of Education's *Civics and Citizenship Education: Teaching and Learning Guide* defines civics education and citizenship education as follows:²

Civics education involves students developing their knowledge and understanding of their rights and duties as citizens and of civic processes, for example, how laws are made, the roles of formal institutions, and common civics activities such as voting in elections.

This definition is much narrower than the form of civics education that appears to be anticipated by the Law Council of Australia – certainly it would not develop children and young people's capability to recognise legal problems or to seek out assistance to resolve them. That said, this form of civics education is undoubtedly an important foundation.

The Australian Access to Justice Taskforce also argues for a broader understanding of civics and citizenship education as including both education about social justice and conflict resolution:³

Education about social justice, conflict resolution and the legal system, are an important component of civics and citizenship education, and help to strengthen young people's awareness of access to justice issues.

This more expansive approach to civics education is well aligned with the emphasis on prevention and early resolution discussed above. In the following sections I discuss three elements of this broader form of education – education about human rights, everyday legal issues / legal capability, education about the justice system, and sexuality and consent education.

¹ Law Council of Australia. (2018). [*The Justice Project: Final Report Part 2 People: Building Legal Capability and Awareness*](#) at 38.

² Potter, K. (2020). [*Civics and Citizenship Education: Teaching and Learning Guide*](#). Ministry of Education at 3: "Citizenship education involves students developing the dispositions, knowledge, and skills they need to be active citizens. This includes having opportunities and experiences of being, belonging, and participating in a community, in ways that teach students how to listen respectfully to the views of others and how to effect change in the communities and societies they belong to."

³ Access to Justice Taskforce. (2009). [*A Strategic Framework for Access to Justice in the Federal Civil Justice System: A Guide for Future Action*](#). Australian Government Attorney-General's Department at 157.

Education about rights

Another key area of law-related education for children and young people is education about their rights or human rights education:⁴

For the enactment of rights, people need to know their rights, so they can deservedly claim their rights. ...Learning about rights builds intrinsic sense of self-value and self-esteem (Feinberg, 1973). Children need to see themselves having value not for any particular characteristics but purely for their existence.... Children are one of the last groups to claim rights, yet, unlike other marginalized groups, it is largely others (child advocates) claiming on children's behalf. The first step is for children to know their rights.

The UN Committee on the Rights of the Child has consistently emphasised the importance of children's rights training in many of its General Comments. For example, General Comment No.1 on the aims of education provides:⁵

Human rights education should provide information on the content of human rights treaties. But children should also learn about human rights by seeing human rights standards implemented in practice, whether at home, in school, or within the community.

General Comment No.5 on General Measures of Implementation reinforces the importance of human rights education stating “[c]hildren need to acquire knowledge of their rights and the Committee places special emphasis on incorporating learning about the Convention and human rights in general into the school curriculum at all stages.”⁶ Other General Comments address specific contexts such as General Comment No. 21 on children in street situations which emphasises the importance of the right to have access to, seek and impart information about their rights noting that “[c]ontext-specific, accessible child rights education will help to overcome barriers to participation so their voices can be heard”.⁷

Research overseas identifies a range of benefits from rights education including influencing children's understanding of rights, promoting a more positive school climate with better peer and student teacher relationships, improving school behaviour, promoting student participation in school decision-making, and higher levels of student well-being.⁸ A study in Scotland also demonstrated that integrating rights-based practice can assist to raise attainment and achievement.⁹ The study authors note:¹⁰

⁴ Phillips, L. (2016). Educating children and young people on the UNCRC: actions, avoidance and awakenings. In *Children's rights, educational research and the UNCRC: past, present and future* (pp. 39-59). UK Symposium Books at 39-40.

⁵ United Nations Committee on the Rights of the Child. (2001). [General comment No.1: Article 29\(1\): The aims of education](#). The Office of the High Commissioner for Human Rights at 6.

⁶ United Nations Committee on the Rights of the Child. (2003). [General comment No.5: General measures of implementation of the Convention on the Rights of the Child \(arts. 4, 42 and 44, para. 6\)](#). The Office of the High Commissioner for Human Rights at 16.

⁷ United Nations Committee on the Rights of the Child. (2017). [General comment No. 21 \(2017\) on children in street situations](#). The Office of the High Commissioner for Human Rights at 15.

⁸ White, J. (2022). [Theory of Change for Making Children's Rights Real in Scotland: Rapid Review of the change process no. 1 "Making children's rights real through policy adaptation, coordination, administrative integration and budgetary consideration"](#). The Observatory of Human Rights Scotland at 7-8.

⁹ Mannion, G., Sowerby, M. & l'Anson, J. (2015). [How Young People's Participation in School Supports Achievement and Attainment](#). Scottish Commissioner for Children & Young People at 4.

¹⁰ Ibid at 2.

From young people’s perspectives, a rights-based education was integral to their achievement and attainment. It was noticeable that in these seven schools, across all arenas of school life, pupils had substantial opportunities to formally and informally take part in a variety of meaningful activities, to take responsibility for events, make contributions to school life, and have their views considered in matters that affected them....We conclude, therefore, that it is less useful to see a rights-based education as an add-on to mainstream education; it is better understood as a way of working across all school life.

This another gap in the NZ guide. That is, there is little connection between the civics and citizenship guide and everyday practices such as students taking part in decision making at school.

Another potential benefit of rights education is that it could improve school safeguarding.¹¹ Struthers points to the common criticism of safeguarding the system in the United Kingdom that it fails to take into account the “voices and lived experiences of the children it is designed to protect” and argues that that human rights education could be beneficial by equipping “young people with the means to recognise when their human rights are being violated and to understand how to seek help if this is the case”.¹² However, Struthers also identifies teachers’ concerns that when children and young people start to see themselves as rights holders and stand up for those rights, they will do so in a way that challenges authority – specifically the authority of teachers and schools. She notes that her research “revealed attitudinal anxieties around ... the potential loss of control in a rights-respecting learning environment”.¹³

Alison Struthers argues that human rights education should not be limited to what human rights are, it should go further to include the experience of rights in education through the “creation of a human rights culture that respects the rights of both teachers and learners within educational settings”, and equipping learners with the skills required to promote and defend rights.¹⁴ She explains the value of this broader approach:¹⁵

[I]f you show someone what violations of human rights look like, they will be better able to recognise these in their own lives. And to take it one step further, if you show them what human rights violations look like and tell them what they can do to challenge or remedy these, they will be better equipped to recognise and address rights breaches in their lived experiences.

Lundy and Martínez Sainz make a similar argument pointing to the breaches of children’s rights happening every day across the world and arguing that if human rights education is to be transformative it needs to incorporate these negative lived experiences of injustice as a way to build children’s capacity and to develop the legal knowledge and skills required to identify and challenge rights breaches.¹⁶ They identify a range of common rights violations in schools such as discrimination and segregation, disciplinary action including its disproportionate impact on children with special educational needs and of some ethnicities, bias and discrimination in testing and assessment processes, and school uniform policy.¹⁷ They also criticise what they

¹¹ Struthers, A. E. (2021). Protecting invisible children in England: how human rights education could improve school safeguarding. *Human Rights Education Review*, 4(3), 45-64.

¹² Ibid at 56.

¹³ Ibid at 54-55.

¹⁴ Ibid at 47.

¹⁵ Ibid at 48-49.

¹⁶ Lundy, L., & Martínez Sainz, G. (2018). The role of law and legal knowledge for a transformative human rights education: addressing violations of children’s rights in formal education. *Human Rights Education Review*, 1(2), 4-24 at 6-7.

¹⁷ Ibid at 12-13.

describe as the ‘chicken soup’ approach to rights in which emphasises “the ethical and moral aspects of children’s rights over the legal components, presenting these rights as ‘ethical values’ or a ‘lifestyle’, rather than legal entitlements that should have concrete legal consequences”.¹⁸ They argue:¹⁹

Legally literate HRE would also promote awareness of a primary purpose of these international standards, which is to achieve state accountability for the way governments treat their citizens and to enable rights-holders, including children, to claim their rights and use the legal standards, where appropriate, as a basis to seek redress for wrongs.... Children have a right to know what their schools and others should not be doing to them, as well as what they should, and human rights education is one place to help to ensure that this occurs.

One of Lundy and Martínez Sainz’ suggestions is a ‘Little Book of Rights, Wrongs and What to Do About Them’ which would both tell children about their rights in school, their responsibility to respect the rights of others, and that they have the capacity to do something when their rights or the rights of other students are not respected.²⁰

Perry-Hazan drew from the findings of her research in relation to students’ perceptions of their rights to take this argument slightly further describing students’ experience of their rights in school as a ‘hidden human rights curriculum’.²¹

The dominance of school-related factors in shaping students’ perceptions of their rights in school highlights the conclusion that school practices constitute a “hidden human rights curriculum,” from which students learn about human rights and their importance ... The interconnections of rights-based school practices and students’ perceptions as to the importance of rights in school imply that students who experience the fulfillment of rights in school learn to value these rights... They also imply that students are more likely to normalize rights violations if these violations become rooted in the school’s habitus ... that is, if they are embedded in the ways power and culture influence institutional action

As a result, Perry-Hazan advocates for “a whole-school approach” to human rights education.²²

Based on a literature review and research collected from 26 countries, UNICEF identified a series of benchmarking statements reflecting best practice in child rights education:²³

- Children’s rights are a clear requirement within the statutory curriculum;
- Teachers are familiar with the UNCRC and understand the implications of children’s rights for their professional practice;
- All teachers have access to high quality educational resources to support CRE;
- Children’s rights are respected in the everyday practices of teachers;
- There is a clear expectation that all levels of the education system should promote children’s rights;
- Children’s participation in the education system is perceived as a right; and

¹⁸ Ibid at 15.

¹⁹ Ibid at 17-18.

²⁰ Ibid at 19.

²¹ Perry-Hazan, L. (2021). Students’ Perceptions of Their Rights in School: A Systematic Review of the International Literature. *Review of Educational Research*. 91(6), 919-957 at 938.

²² Ibid at 941.

²³ Jerome, L., Emerson, L., Lundy, L., & Orr, K. (2015). [*Teaching and learning about child rights: A study of implementation in 26 countries*](#). Queen’s University Belfast; UNICEF at Appendix 1.

- There is a clear system for monitoring the quality of CRE and holding staff to account for improvement planning.

The New Zealand Teaching and Learning Guide briefly mentions children’s rights under the Convention on the Rights of the Child but this reference appears to be solely to say that the Convention supports civics and citizenship education,²⁴ as opposed to the importance of teaching children about their rights under UNCROC. It mentions five UNCROC rights, but the description of each is oversimplified to the extent that much of the meaning is lost. For example, the full text of Article 13 is:²⁵

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

However, the summary makes no mention of the right to seek and receive information which is somewhat surprising given that this aspect of Article 13 is particularly relevant to children’s rights in education.²⁶

Learning about ‘everyday’ law

Children and young people also need to learn about the practical application of the law to their everyday lives as the Law Council of Australia explains, “[w]hile civil and political rights such as freedom of speech are important, they are often remote from the lives of students” as compared to consumer rights which have direct relevance to students’ lives.²⁷ Chan and Huys explain the importance of knowing about these everyday rights and legal issues using housing rights as another example:²⁸

Throughout the years, we have regularly heard ‘I wish I had known that earlier.’ In each situation a young person’s rights were violated and the stability of their housing compromised. If they had known earlier, they may have been able to seek legal

²⁴ Potter, *Civics and Citizenship Education: Teaching and Learning Guide* at 5. The reference begins with the statement “Effective civics and citizenship education aligns with the United Nations Convention on the Rights of the Child (UNCROC).”

²⁵ United Nations General Assembly. (1989). *Convention on the Rights of the Child*. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

²⁶ The full text of Article 13(1) provides: “[t]he child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.”. United Nations General Assembly. (1989). *Convention on the Rights of the Child*. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

²⁷ Law Council of Australia, *The Justice Project: Final Report Part 2 People: Building Legal Capability and Awareness* at 40.

²⁸ Chan, E. & Huys, J. (2019). *Access to justice through street youth legal services*. *Parity*, 32(8), 53-54 at 54.

assistance and thereby protect their housing. Having rights is not enough; a young person must also know about them.

Although writing about public legal education more generally, many of Wintersteiger's comments also articulate why legal capability is an important skill that should be taught in schools. For example, she explains:²⁹

Legal capability is a life skill that contributes to the well-being of individuals and the community. Moving home, signing a consumer contract, getting married or finding a job are the features of life that represent possibilities, and are largely construed with optimism and hope rather than representing risks that need to be averted

The Law Council of Australia suggested that a future review of civics education should investigate its capacity to increase students' legal capability including:³⁰

- *recognising everyday legal problems which affect people through the course of their lives – e.g. consumer, family, housing, crime – as well as common problems experienced by children and young people;*
- *understanding that early action is often required to avoid escalating personal consequences; and*
- *knowing where to find legal information, legal or other appropriate assistance to resolve these problems effectively.*

I would make much the same recommendation. Drawing from Denvir's research exploring how young people use the internet to find online legal information,³¹ I would also add an additional topic in relation to assessing the relevance, quality and reliability of sources e.g. whether it relates to the correct jurisdiction and whether it is up to date etc.

Participants in a Scottish research study involving young people with care-experience suggested that care-experience should be "a distinct part of rights education for all children, to help people self-identify that they have specific rights and protections".³² While I would agree that children and young people with care-experience should receive legal education about their rights and protections specifically relating to their care status, I am less convinced that this education should be provided to all students regardless of its relevance simply due to the volume of material they are already required to learn. However, I do think that there would be value in both providing this type of education to children and young people in care or leaving care, as well as including topics in relation to the specific rights of different groups of children and young people in broader educational initiatives.

²⁹ Wintersteiger, L. (2015). [Legal Needs, Legal Capability and the Role of Public Legal Education](#). Law for Life: the Foundation for Public Legal Education at 30.

³⁰ Law Council of Australia, [The Justice Project: Final Report Part 2 People: Building Legal Capability and Awareness](#) at 40.

³¹ Denvir, C., Balmer, N.J., & Pleasence, P. (2011). Surfing the web – Recreation or resource? Exploring how young people in the UK use the Internet as an advice portal for problems with a legal dimension. *Interacting with Computers*, 23(1), 96-104; Denvir, C. (2014). [What is the Net Worth? Young People, Civil Justice and the Internet](#) [Doctoral Thesis, University College London]; and Denvir, C. (2016). [Online and in the know. Public legal education, young people and the Internet](#). *Computers & Education*, 92-93, 204-220.

³² Who Cares? Scotland. (2020). [Navigating a World of Rights: Views from our Care Experienced membership](#) at 20.

Conflict resolution and the justice system

The research and literature describes the importance of education about the justice system both as part of education in the school system, and tailored and timely education for children and young people who come into contact with it whether as victims, witnesses, or alleged offenders.

Calibrate's report for the Canadian Action Committee on Access to Justice in Civil and Family Matters argues that efforts to build legal capability in school-age students and university students when they have not yet developed their own conflict skills "offers the potential to transform how people respond to legal conflict, whether in their own lives or in these professional roles".³³ One provider Éducaloi offers both legal education workshops to high school classes and runs a National Legal Education Week virtually described as a "fun way for students to learn about law in society and develop the skills to face simple or complex situations of everyday life, to take thoughtful actions, to develop a critical thinking about legal issues".³⁴

An example of conflict resolution education offered in New Zealand schools is the Peace Foundation's peer mediation programmes including Leadership through Peer Mediation:³⁵

Leadership through Peer Mediation (LtPM) is a conflict resolution programme for secondary school students which empowers them to facilitate a peer mediation service by students trained as mediators. Peer mediators support their peers in conflict to reach peaceful agreements without teacher intervention. Students are enabled to become 'ambassadors of social justice' or 'peace ambassadors', student leaders in the school community promoting fairness and respect for all students, watching out for harassment and bullying and helping students to get the support they may need.

Education for students can also be a part of efforts to increase diversity within the legal profession. For example, a Canadian programme "Braiding Diversity into Justice" connects young marginalized and/or racialized women with members of the legal sector.³⁶ The OJAN website describes the programme's goal:³⁷

[T]o connect marginalized and/or racialized young women (cis and trans) between the ages of 16 and 20 with women working in the legal sector. Gender fluid and non-binary youth are also welcome. There is a place for everyone in the legal profession regardless of socio-economic status, disability, migration, sexual orientation, gender identity or expression, ethnicity, or religion. Find inspiration from diverse women who are successful legal/justice sector professionals.

Other Canadian justice organisations also offer educational and competitive mock trials to school students which exposes them to legal professionals, careers in law and basic legal concepts.³⁸ For example, the Ontario Justice Education Network (OJEN) Charter Challenge is a mock appeal process for high school students where students receive a mock judicial decision

³³ Calibrate. (2020). [Canada's Justice Development Goals 2020: Challenge and Change](#). Action Committee on Access to Justice in Civil and Family Matters at 31.

³⁴ Ibid at 31.

³⁵ Peace Foundation. (n.d.). *Secondary Schools 9-13: Leadership Through Peer Meditation* <https://www.peacefoundation.org.nz/what-we-offer/education/secondary-schools-leadership-peer-mediation-programmes/>. The Peace Foundation also offer other skills based programmes including 'Communication for Leadership', the 'Cool Schools' programme for primary schools, and teacher development.

³⁶ Calibrate, [Canada's Justice Development Goals 2020: Challenge and Change](#) at 31.

³⁷ OJEN. (2023). *Braiding Diversity into Justice*. <https://ojen.ca/en/program/braiding-diversity-into-justice>

³⁸ Calibrate, [Canada's Justice Development Goals 2020: Challenge and Change](#) at 31.

in which complex issues relating to the Canadian Charter of Rights are raised on appeal.³⁹ Students all over Ontario form teams and research and write submissions including legal arguments for either the appellant or the respondent. OJEN staff and volunteers review all the submissions and identify the best teams from each side who are then invited to make their arguments at the Court of Appeal for Ontario.⁴⁰ The OJEN website contains a set of resources for participants meaning that participation is both a learning experience and a competition.

Relationships and sexuality education

Learning about relationships and sexuality (relationships and sexuality education or RSE) is part of the New Zealand Curriculum and an aspect of health education. The National Performance Measures also support students' learning in RSE and boards, principals and teachers have obligations to students including to provide a "physically and emotionally safe place for all students and staff" which RSE can assist in developing.⁴¹ The Ministry of Education produces resources including the *Relationships and Sexuality Education: A Guide for Teachers, Leaders, and Boards of Trustees*⁴² which "have been designed to help schools adopt a whole-school approach to strengthening their programmes in relationships and sexuality education".⁴³

Two research studies have examined the experiences of teachers and school leaders since the guidelines were refreshed in 2020. The first study was a survey of 190 secondary school teachers in New Zealand about their experiences teaching RSE.⁴⁴ The findings included that many students were not receiving the 12-15 hours of RSE recommended by the Ministry of Education⁴⁵ and the Education Review Office with key barriers including:⁴⁶

- the timetabled time for RSE (80% of respondents);
- access to externally provided PLD (62% of respondents);
- whole-school approaches as related to RSE (59% of respondents);
- access to in-school PLD (56% of respondents);
- feedback from community consultation was a barrier (38% of respondents); and
- parent engagement in RSE teaching and learning (35% for single sex schools, 40% for state integrated schools and 45% for low decile schools).

The second study focussed on primary schools and involved two online surveys, one for teachers and one for senior leaders/principals, followed by three in-depth focus groups involving three and five teachers and senior leaders.⁴⁷ Thematic analysis of the responses to open

³⁹ OJEN. (2023). *OJEN Charter Challenge*. <https://ojen.ca/en/program/charter-challenge>

⁴⁰ Ibid.

⁴¹ Ministry of Education. (2020). *Relationships and sexuality education: A guide for teachers, leaders and boards of trustees Years 9-13* at 46-49.

⁴² Ibid. Other resources have also been developed by the Ministry of Education to support planning and teaching of the RSE curriculum see: Ministry of Education. (2020). Relationships and sexuality education guidelines – Resource collection. <https://hpe.tki.org.nz/planning-and-teaching-resources/resource-collections/relationships-and-sexuality-education-guidelines-resource-collection/>

⁴³ Ministry of Education, *Relationships and sexuality education: A guide for teachers, leaders and boards of trustees Years 9-13* at 6.

⁴⁴ Dixon, R., Robertson, J., Beliveau, A., Reid, S., Maitland, R., & Dalley, J. (2022). *New Zealand secondary school teachers' perspectives on teaching Relationships and Sexuality Education*. University of Canterbury; New Zealand Family Planning; NZ Health Education Association.

⁴⁵ Ibid at 16-17.

⁴⁶ Ibid at 29-30.

⁴⁷ Dixon, R., Clelland, T. & Blair, M. (2023). *Exploring the landscape of relationships and sexuality education in primary schools in New Zealand*. University of Canterbury at 7-8.

questions in the survey identified three key themes: ‘navigating community concerns’, ‘RSE implementation’, and ‘outside the comfort zone’.⁴⁸ The first of these themes “centred upon three main issues: people’s misunderstandings of RSE, parental opposition to RSE, and the balancing act needed to account for differing perspectives”.⁴⁹ The second theme “encompasses issues relating to resourcing RSE: Time, teaching and learning resources, professional learning and development (PLD), and planning for age and stage appropriate RSE”.⁵⁰ The final theme, ‘outside the comfort zone’ related to how “RSE can take teachers outside of their comfort zone, in relation to RSE topics, teacher beliefs, whether RSE is the core business of schools, and overall teacher confidence, knowledge and capacity”.⁵¹

A particularly interesting question is whether parents and/or the community actually oppose RSE. That is, whether this is an unfounded assumption or one based on a vocal minority. Recent research in Australia found that despite prevailing assumptions that parents do not support RSE in schools, in reality there was resounding support from parents for schools to deliver RSE in both primary and secondary schools including across religious and political lines.⁵² The authors concluded:⁵³

Opponents to school-based RSE may be a minority in Australia, but these groups are usually more vocal than those who are supportive. Their views are therefore given a disproportionate weight by the media and, consequently, those with the power to ensure RSE implementation.

I am not aware of similar research in Aotearoa New Zealand. However, section 91 of the Education and Training Act 2020 requires the board to consult with the school community at least once every two years on how the school will implement the health education component of the curriculum including RSE which means that views of parents and the wider school community, or at least those that respond to consultation, can influence on the nature and content of RSE in Aotearoa New Zealand.⁵⁴ The school community is defined as including the parents of students at the school but not the students themselves. However, schools can decide that students are “any other person who the board considers is part of the school community for the purpose of this section”.⁵⁵ The failure to expressly include students, particularly those in secondary school, in the group with whom Boards of Trustees must consult on the health curriculum is problematic as YouthLaw Aotearoa argued in its submission on the Bill.⁵⁶

This provision is extremely problematic because it disregards students’ own views in relation to their health needs and it is easy to anticipate situations where these may conflict with the views of their parents, e.g. in relation to sexual health... Given that in many cases students can consent to their own medical treatment, it is illogical that there is no obligation to seek their views on the health curriculum. It is also clear that students have a lot to say about health issues.

⁴⁸ Ibid at 21.

⁴⁹ Ibid at 21.

⁵⁰ Ibid at 22.

⁵¹ Ibid at 23.

⁵² Hendriks, J., Marson, K., Walsh, J., Lawton, T., Saltis, H., & Burns, S. (2023). [Support for school-based relationships and sexual health education: a national survey of Australian parents](#). *Sex Education at 9-10*. In terms of the latter point, the study found that the vast majority of parents who either identified as Catholic, or as supporters of the Australian Liberal/ National Coalition (i.e., a political party that generally advocates for conservative policies) were highly supportive of schools to deliver RSE despite the opposition to it from religious institutions and conservative political parties.

⁵³ Ibid at 13.

⁵⁴ [Education and Training Act 2020, s91](#).

⁵⁵ Education and Training Act 2020, s91(4).

⁵⁶ YouthLaw Aotearoa. (2020). [YouthLaw Aotearoa Submission on the Education and Training Bill](#) at 7.

It is arguable that not consulting children and young people about the development of the RSE curriculum would constitute a breach of their rights under Articles 12 & 13 of the UNCROC. Failing to provide RSE could also constitute a breach of students' rights under Article 13 (the right to seek and receive information) and Article 39 (the right to education).

Under the Education and Training Act parents also have the right to withdraw their children from "from tuition in specified parts of the health curriculum related to sexuality education".⁵⁷ This provision fails to recognise that the right to education is a right of the child not their parent, and is inconsistent with children's rights under international law. The fact that there is no exception for children who are Gillick competent or aged 16 and over is particularly problematic.

Some research and evaluation has found that RSE programmes have led to reductions in violence and victimisation. For example, a cluster randomized trial of Safe Dates, a programme aimed at preventing intimate partner violence among adolescents, found the programme led to 25% less psychological, 60% less physical and 60% less sexual violence perpetration at one month among participating girls and boys aged 12–14 years. There was also a significant reduction in self-reported physical and intimate partner violence perpetration and victimization four years after young people had participated in the programme.⁵⁸ Other research has been more equivocal as the World Health Organisation explains:⁵⁹

Many review studies that have evaluated these programmes have found that while they are effective at strengthening protective factors against this type of abuse (e.g. knowledge of sexual abuse and protective behaviours), more research into whether they reduce actual sexual abuse is needed (159). Evidence also suggests that the role of gender and social norms in the perpetration of sexual abuse needs to be recognized, and that a "whole of school" approach is required. This includes ensuring that inclusive and equitable school policies and protocols are in place, engaging school leadership, and developing curricula and teaching approaches that are sensitive to social and gender norms and inequalities (6).

This is a similar point to that relating to the hidden human rights curriculum discussed above. That is, children and young people may learn just as much from what goes on day to day in school as they do from what they are explicitly taught in lessons, possibly even more i.e. lesson content about consent and gender roles not mean very much if they are not reflected in what happens in practice. This means that education strategies need to be 'whole of school' and consideration needs to be given to the school's wider culture. This is the approach advocated for in the Ministry of Education's Guide discussed above.

Concerns about the effectiveness of relationships and sexuality education also arise in studies in relation to educational programmes in tertiary education. For example, Zenteno and Stewart-Robison's research seeking to understand the prevention education received by young men and how effective it is found that:⁶⁰

Men in this study overwhelmingly felt that they are not receiving enough prevention education and training on circumstances when they should intervene and how to do so...According to the participants, the trainings they are receiving from their institutions are not as effective as they should be. Mandated trainings were viewed by many participants as simply something they had to do as part of their enrolment.

⁵⁷ [Education and Training Act 2020, s51](#).

⁵⁸ World Health Organization. (2016). [INSPIRE: seven strategies for ending violence against children](#). WHO Press at 72.

⁵⁹ Ibid at 70.

⁶⁰ Zenteno, S. & Stewart-Robison, M. (2022). [It's On Us Engaging Men: National Campus Sexual Assault Attitudes and Behaviors Research Report](#). It's On Us at 11.

Several men reported tuning out the trainings, either because they felt they were “good guys” who didn’t need it, or because the trainings were cheesy and not engaging.

The topic of relationships and sexuality education, and what forms of relationships and sexuality education are or are not effective, is much broader and more complex than I can give justice to in this short paper. However, it is clear that it should be evidence-based and reflect best practices as recognised by those with expertise in this area.

In this regard, the New Zealand Family Violence Clearinghouse recently published an article bringing together media articles, research and resources related to relationship and sexuality education for young people.⁶¹ This included the Compendium on Comprehensive Sexuality Education (CSE) published by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, and the Special Rapporteur on the right to education and the Working Group on discrimination against women and girls in March 2023.⁶²

The compendium concludes with 7 calls to actions for states to provide comprehensive sexuality education including that comprehensive sexuality education is a mandatory subject and that the “sexuality education curricula are non-discriminatory, non-biased, and based on scientific evidence and human rights” and giving:⁶³

[S]pecial attention given to respect, consent, autonomy, relationships, sexuality, gender equality and sexual and gender diversity, pleasure, responsible parenthood, dismantling patriarchal gender stereotypes and harmful social norms, and preventing early pregnancy, sexually transmitted infections, sexual and gender-based violence and discrimination.

This recommendation could be used to guide this work in Aotearoa New Zealand.

Information and education for victims and witnesses

In the United States the Office for Victims of Crime has developed the *Child Victims and Witnesses Support Materials* “to support children and youth during their involvement with the justice system as a victim or witness to a crime”.⁶⁴ The materials:⁶⁵

[T]each children about how the justice system works, what their rights are, the roles of the different practitioners they’ll meet, and how they can cope with the difficult feelings they might have. For children who have to testify, there are also tips to help them prepare for going to court.

⁶¹ New Zealand Family Violence Clearinghouse. (2023). *Relationship and sexuality education: media, research, resources and new campaign*. <https://nzfvc.org.nz/news/relationship-and-sexuality-education-media-research-resources-and-new-campaign>

⁶² Mofokeng, T., Madrigal-Borloz, V., Shaheed, F., Estrada-Tanck, D., Radacic, I., Broderick, E., Geset Techane, M., & Upreti, M. (2023). *A compendium on comprehensive sexuality education*. Office of the High Commissioner for Human Rights.

⁶³ Ibid at 22-23.

⁶⁴ Office for Victims of Crime. (n.d.). *Child Victims and Witnesses Support Materials*. <https://ovc.ojp.gov/child-victims-and-witnesses-support>

⁶⁵ Ibid.

The Office for Victims of Crime have also developed materials specifically designed for children and youth in tribal communities which address the issues specific to this cohort including jurisdictional conflicts and variations in tribal justice systems and have been designed by Native artists and authors.⁶⁶

The Ministry of Justice's Victim Information website contains a series of resources for victims but these are not tailored to children and young people.⁶⁷ The website of the Chief Victims Advisor to Government also links back to the Ministry of Justice website for victims and does not contain any resources for child victims.⁶⁸ The Victim Support website does contain some resources in relation to children and young people, however they are focussed on supporting children rather than being for children and young people themselves.⁶⁹ They include:

- Supporting your child or young person after a crime or traumatic event (information sheet);
- Family violence and harm: Supporting children and young people (Information sheet);
- After a suicide: Supporting a child or young person (information sheet); and
- After a homicide: Supporting grieving children and young people (information sheet).

While it is important that resources like these are available, resources for children and young people themselves are also needed.

Auckland Sexual Abuse HELP have a number of resources for children and young people on their website including resources explaining what happens when children and young people report sexual abuse and how to get help.⁷⁰

⁶⁶ Office for Victims of Crime. (n.d.). *Child Victims and Witnesses Support Materials: Children and Youth in Tribal Communities*. <https://ovc.ojp.gov/child-victims-and-witnesses-support>

⁶⁷ Ministry of Justice. (n.d.). *Haere Mai Welcome*. <https://www.victiminfo.govt.nz/>

⁶⁸ Chief Victims Advisor to Government. (n.d.). *Chief Victims Advisor*. <https://chiefvictimsadvisor.justice.govt.nz/home-2/>

⁶⁹ Victim Support. (n.d.). *Resource centre*. <https://victimsupport.org.nz/resource-centre>

⁷⁰ Auckland Sexual Abuse HELP. (n.d.). *Info for survivors, family and friends*. <https://www.helpauckland.org.nz/info-for-survivors-family-and-friends.html>. See Auckland Sexual Abuse HELP. (n.d.). *What can I do*. <https://www.helpauckland.org.nz/what-can-i-do.html>

References

- Access to Justice Taskforce. (2009). [*A Strategic Framework for Access to Justice in the Federal Civil Justice System: A Guide for Future Action*](#). Australian Government Attorney-General's Department.
- Calibrate. (2020). [*Canada's Justice Development Goals 2020: Challenge and Change*](#). Action Committee on Access to Justice in Civil and Family Matters.
- Chan, E. & Huys, J. (2019). [*Access to justice through street youth legal services*](#). *Parity*, 32(8), 53-54.
- Denvir, C., Balmer, N.J., & Pleasence, P. (2011). Surfing the web – Recreation or resource? Exploring how young people in the UK use the Internet as an advice portal for problems with a legal dimension. *Interacting with Computers*, 23(1), 96-104.
- Denvir, C. (2014). [*What is the Net Worth? Young People, Civil Justice and the Internet*](#) [Doctoral Thesis, University College London].
- Denvir, C. (2016). [*Online and in the know. Public legal education, young people and the Internet*](#). *Computers & Education*, 92-93, 204-220.
- Dixon, R., Robertson, J., Beliveau, A., Reid, S., Maitland, R., & Dalley, J. (2022). [*New Zealand secondary school teachers' perspectives on teaching Relationships and Sexuality Education*](#). University of Canterbury; New Zealand Family Planning; NZ Health Education Association.
- Dixon, R., Clelland, T. & Blair, M. (2023). [*Exploring the landscape of relationships and sexuality education in primary schools in New Zealand*](#). University of Canterbury.
- Hendriks, J., Marson, K., Walsh, J., Lawton, T., Saltis, H., & Burns, S. (2023). [*Support for school-based relationships and sexual health education: a national survey of Australian parents*](#). *Sex Education*.
- Jerome, L., Emerson, L., Lundy, L., & Orr, K. (2015) [*Teaching and learning about child rights: A study of implementation in 26 countries*](#). Queen's University Belfast; UNICEF.
- Law Council of Australia. (2018). [*The Justice Project: Final Report Part 2 People: Building Legal Capability and Awareness*](#).
- Lundy, L., & Martínez Sainz, G. (2018). The role of law and legal knowledge for a transformative human rights education: addressing violations of children's rights in formal education. *Human Rights Education Review*, 1(2), 4–24.
- Mannion, G., Sowerby, M., & l'Anson, J. (2015). [*How Young People's Participation in School Supports Achievement and Attainment*](#). Scottish Commissioner for Children & Young People.
- Marson, K. (2019). *Ignorance is not innocence: Safeguarding sexual wellbeing through relationships and sex education*. The Winston Churchill Memorial Trust of Australia.
- Ministry of Education. (2020). [*Relationships and sexuality education: A guide for teachers, leaders and boards of trustees Years 9-13*](#).
- Mofokeng, T., Madrigal-Borloz, V., Shaheed, F., Estrada-Tanck, D., Radacic, I., Broderick, E., Geset Techane, M., & Upreti, M. (2023). [*A compendium on comprehensive sexuality education*](#). Office of the High Commissioner for Human Rights.
- Perry-Hazan, L. (2021). Students' Perceptions of Their Rights in School: A Systematic Review of the International Literature. *Review of Educational Research*, 91(6), 919-957.

Phillips, L. (2016). Educating children and young people on the UNCRC: actions, avoidance and awakenings. In *Children's rights, educational research and the UNCRC: past, present and future* (pp. 39-59). UK Symposium Books.

Potter, K. (2020). [*Civics and Citizenship Education: Teaching and Learning Guide*](#). Ministry of Education.

Struthers, A. E. (2021). Protecting invisible children in England: how human rights education could improve school safeguarding. *Human Rights Education Review*, 4(3), 45–64
<https://doi.org/10.7577/hrer.4473>

United Nations Committee on the Rights of the Child. (2001). [*General comment No.1: Article 29\(1\): The aims of education*](#). The Office of the High Commissioner for Human Rights.

United Nations Committee on the Rights of the Child. (2003). [*General comment No.5: General measures of implementation of the Convention on the Rights of the Child \(arts. 4, 42 and 44, para. 6\)*](#). The Office of the High Commissioner for Human Rights.

United Nations Committee on the Rights of the Child. (2017). [*General comment No. 21 \(2017\) on children in street situations*](#). The Office of the High Commissioner for Human Rights.

United Nations General Assembly. (1989). *Convention on the Rights of the Child*.
<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

White, J. (2022). [*Theory of Change for Making Children's Rights Real in Scotland: Rapid Review of the change process no. 1 "Making children's rights real through policy adaptation, coordination, administrative integration and budgetary consideration"*](#). The Observatory of Human Rights Scotland.

Who Cares? Scotland. (2020). [*Navigating a World of Rights: Views from our Care Experienced membership*](#).

Wintersteiger, L. (2015). [*Legal Needs, Legal Capability and the Role of Public Legal Education*](#). Law for Life: the Foundation for Public Legal Education.

World Health Organization. (2016). [*INSPIRE: seven strategies for ending violence against children*](#). WHO Press.

YouthLaw Aotearoa. (2020). [*YouthLaw Aotearoa Submission on the Education and Training Bill*](#).

Zenteno, S. & Stewart-Robison, M. (2022). [*It's On Us Engaging Men: National Campus Sexual Assault Attitudes and Behaviors Research Report*](#). It's On Us.

