



HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Uncorrected oral evidence: Human rights of children in the social care system in England (HC 1218)

Wednesday 21 January 2025

2.05 pm

Watch the meeting

Members present: Lord Alton of Liverpool (Chair); Juliet Campbell; Lord Dholakia; Baroness Kennedy of The Shaws; Afzal Khan; Baroness Lawrence of Clarendon; Lord Murray of Blidworth; Peter Swallow; Sir Desmond Swayne.

Also present: Helen Hayes.

Questions 45 – 58

Witness

I: Dame Rachel de Souza, Children's Commissioner for England.

USE OF THE TRANSCRIPT

1. This is an uncorrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.
2. Any public use of, or reference to, the contents should make clear that neither Members nor witnesses have had the opportunity to correct the record. If in doubt as to the propriety of using the transcript, please contact the Clerk of the Committee.
3. Members and witnesses are asked to send corrections to the Clerk of the Committee within 14 days of receipt.

Examination of witness

Dame Rachel de Souza.

Q45 **Chair:** Welcome to the 42nd meeting of the Joint Committee on Human Rights in this Parliament. For any strangers, whether here in the Room, or those who have joined us online, the Joint Committee is a committee of both Houses of Parliament, comprising six Members of the Lords and six Members of the Commons, drawn from a variety of different political traditions and backgrounds. What unites us is a passion for human rights and for human dignity. We paint on a wide canvas, examining approaches to policy and scrutinising legislation. Our most recent reports, our correspondence and our work can be read on our website.

We continue today to take evidence on two current inquiries: one on the human rights of children in social care, and the other on human rights and the regulation of AI. This is the third oral evidence session for the inquiry on the human rights of children in the social care system in England. The purpose of the session and of the inquiry is to examine the extent to which the human rights of children in England are protected by the social care system. Today's session focuses on the role and the work of the Children's Commissioner with regard to human rights issues affecting children in the social care system in England.

The role was created following a recommendation made by my colleague Lord Laming in the Victoria Climbié case. Victoria was starved and tortured to death by her great aunt and her great aunt's boyfriend, despite this abuse being known to numerous local authorities and public services. The Government ordered a statutory inquiry into Victoria's death. It was headed by the former chief inspector of social services, then Herbert—now Lord—Laming. The post of commissioner was initially established under the Children Act 2004, which gave it the function of providing awareness of the views and interests of children.

Dame Rachel de Souza has been the Children's Commissioner for England since 2021. She is nationally recognised as an educator and as an advocate for improving the life chances of disadvantaged children. Before her appointment, she founded and led the Inspiration Trust, a family of 14 schools in East Anglia. In her current role, she has unique data-gathering and inspection powers representing children's needs right across Government. She has been a significant contributor to the work of this committee—the Joint Committee on Human Rights—and it is a great pleasure to welcome Dame Rachel back here today. Among our questions will be the fate of children who have gone missing within the asylum system. My colleague, Baroness Lawrence, will turn to that question in a moment. The first question is a curtain-raiser, however, to set the scene for the more detailed questions which colleagues will ask. To what extent are human rights principles embedded in the legal framework available to children's social care, and how do you take human rights into account as you carry out your work in this area?

Dame Rachel de Souza: As you said, the Children Act initially came into force in 1989. In that piece of work, Baroness Butler-Sloss tried to embed the UNCRC within it, so that we had a workable piece of legislation for our system. We have a unique system, which is very centralised, and where we make lots of new legislation. That is as opposed to some of the modern European democracies that are more federal and do it differently. The Children's Commissioner's role is to protect and promote the rights of children.

I do a lot of listening. I have heard from a million children, a couple of hundred thousand of those children with additional needs, and tens of thousands of children in care. I visit them; I have particular powers, such as powers of entry. I will be down at the Western Jet Foil; I met with children when there were asylum hotels; I see children in all contexts, including in secure children's homes; I turn up to youth prisons on any given morning and they have to let me in. I have particular ways of seeing our most vulnerable children.

In terms of children's rights in children's social care, the Children Act is meant to protect children, keep them safe and embed their rights. Unfortunately, when we look at the data for this year, there are 80,000 children who are in care, who are looked-after children, and there are many more Section 17 children in need. Some 10% of that 80,000 are in children's homes. Half of those children are moved far away from their homes, often hours away, without their views being discussed. They are moved between foster carers, again without their views being discussed. Those children in need are four times more likely to die because their needs have not been met. For our Section 17 children, there is no one approach across all the local authorities. There is a completely different practice in provision; there are no national thresholds.

You will be familiar with those things. What you are probably not familiar with are the things that I am seeing in relation to rights. I will explain through a couple of examples. I was in a local hospital in London recently—I regularly visit the children's hospitals—and a little girl walked round the corner. She was a tiny little tot of two or three years old, and she said hello to me. She was attached to a machine, and seemed very comfortable. I asked the chief nurse who she was, and her reply was that she lived at the hospital. I asked what she meant. It transpired that she could go home, but her parents do not want her, and social care has nothing for her. I asked if she attended nursery, but the little girl had never been out of the ward. She has never seen grass; she has never been to nursery. I am currently using my powers to collect data to find out how many more children like her there are in our system.

I will give just one more example, because I am sure that Lord Alton wants to speed me on. I have entry powers into all our youth prisons and I speak to children there. I was speaking to one lad: a big, six-foot-one boy who was mixed race: this fact is pertinent as we look at overrepresentation. I asked him why he was there, and he told me his story. At 16, he had not really been brought up, and had come from a

single-parent family, but in deep poverty: he had to go out to forage for food. He had serious special educational needs. I asked him what he would like me to tell the Prime Minister about boys like him, about boys in prison. The boy asked me to tell him that he was starving. He was involved in all sorts of problems, and his privileges were taken away from him. He was locked up 22 hours a day and went to bed hungry.

We are seeing, therefore—in the wider areas of healthcare, prisons, justice and in other areas—that the rights issues that we have left behind are starting to raise their heads. That is why I have argued loud and clear that we look again at the Children Act. The modern world is changing. It is completely different in 2026 than it was for children in 1989. We need only look at social media, now, along with the harms that can affect children from the outside world. The Children Act was very much written with a focus on protecting children in their homes. Many of the harms now—such as the grooming gangs scandal—are external. The idea of being listened to is a theme I see everywhere. I have heard from a million children; I hear from children all the time, but I do not want any policy made about children without us listening to them, even if we do something that they do not want us to. Giving them a voice is important. This is just a brief summary.

Chair: Dame Rachel, that really sets the scene extremely well, and you have done it with great passion. I know that my colleagues want to drill deeper into some of the things that they have indicated to me that they want to ask you about. I hope that we will cover them as we discuss whether new legislation—as you have just said—might be necessary. Some of the things that I know colleagues want to ask about are children living in children's homes illegally; the adultification of children; the rights to privacy and family life; the UN Convention on the Rights of the Child; the criminalisation of children in care; the deaths of children in need and your *Children's Plan: Vision for Care*. We will turn in a moment to Baroness Lawrence, and afterwards we will hear from Baroness Kennedy. My colleague Dr Swallow, however, wants to come in with a supplementary now.

Q46 **Peter Swallow:** Thank you so much for that opening. You mentioned social media, and I am going to jump in on the back of that. You will obviously be aware that the Government have committed to a consultation on changes to access to social media, including listening to children. I wanted to get your views on that, and on how specifically we can make sure that children in care are listened to as part of that consultation.

Dame Rachel de Souza: Since I came into the role, the last Government asked me to take children's voices through the passage of the Online Safety Bill, which I did. We have heard a lot from children about potential harms: my research shows that 25% of eight year-olds have seen the most heinous, degrading pornography, as well as beheadings and a range of other things. By the age of 11, it is 50%. At the same time, kids are very pro tech, and they make friends on certain platforms.

I regularly bring in the social media companies to ask them how they are keeping children safe, but I am afraid that I am not terribly impressed by their responses. Two of the worst offenders are X and Snapchat: most children see their first, heinous porn on these platforms by accident, when for example a friend may show them in the playground. I have spoken to those companies, and told them that if they are not going to get this stuff down, then they should not have anyone on there who is under 18.

At the same time, I have had a large number of 16 to 21 year-olds—this is the generation that grew up with tech—in attendance at the Department for Education over the last couple of years. There was one big event where I asked them what they wish their parents had known about tech. As Children’s Commissioner, it is not about what I think; it is about what they think. They told me that they did not think children ought to be given access to this stuff too young; they told me to make sure that their time was managed. They really wanted their parents to engage with them on what they were looking at: they said that parents have not got a clue, generally, and they really need to talk to their children about it. They said that even when they themselves say nothing, they actually like it that their mum asks, and keeps asking. They said that they should not be allowed to take these things to bed with them at night. They want the adults to protect them and to keep them safe, but they want all the joys of being able to participate in the modern world.

We have a dilemma, and it is going to be difficult. In terms of a ban, what are we going to do? Are we going to ban the app store? Are we going to age-assess it? It is really tricky. Is it going to be one or two sites? I think there are some really challenging things to do in order to achieve this and to do it well. My big plea would be to speak to young people. I have said this to Minister Narayan and to others. We will bring children and young people’s voices to them, so that they can make a decision that is one of understanding, rather than a knee-jerk reaction.

Chair: Thank you. Minister Narayan is coming to give evidence to the committee in due course.

Dame Rachel de Souza: He is tech savvy.

Chair: Thank you for flagging that up. Baroness Lawrence?

Q47 **Baroness Lawrence of Clarendon:** Thank you for being here, Dame Rachel, and for setting out the situation so clearly in your first response to Lord Alton. I was part of looking at the Children Act 2004, and the Children and Families Act 2014. As usual, and as with most of these recommendations, there is no funding behind it. The Government produced the Act, but no funding followed it. In around 2023 we were looking at it again, and I am sure that to this day not enough funding goes behind supporting the recommendations that emerge. That is not my question, however: I am just saying that this is what happens.

Back in 2023, it came to light that about 400 children were missing. One

of the questions now is about asylum seekers' unaccompanied children, those who have been placed in hotels and who went missing. It did not say the area that these children were placed in, and so we have no idea, because it is not just one area; it is across the country. I read that 182 children had gone missing in Kent, and there are still 38 children who have not been found. Regarding the 400 young people who went missing from hotels, what work is your office undertaking to help ensure that children who go through the asylum system do not go missing, and that all current missing children are found?

Dame Rachel de Souza: Thank you for your letter to the Home Office, Baroness Lawrence. It was absolutely noted that you have not forgotten those children. As soon as they are off the news and political agenda, they are forgotten. Frankly, nobody knows where those missing children are, and it would be very difficult to find them. Many of them were 16 and 17 year-olds and they would now be 18 or 19. Lord Murray and I had many discussions about this back in the day. It is interesting because I spoke to all the children in the hotels, and some of them had just stepped out before being whisked away by gangs. We just do not know. Some of them made the decision to go with friends. We did lots of core work with other children in the hotel: we spoke to them and asked them where their friends had gone and what had happened to them.

The other thing to note is just how quickly this moves. When I go down to the Western Jet Foil now and look at the children who are coming in, they are from completely different communities. We used to have a lot of Albanian children coming in, and that has now stopped. A lot of those who went missing were under-18s, but that is not happening now. We have children from different war zones and different places, and every year it changes.

I am very pleased that the hotels have closed; that was something all of us wanted. None of us wanted children in hotels, and the safeguarding was inadequate. I constantly drew attention to that fact. We are keeping a very close eye on the national transfer scheme: my concern is that many of these asylum-seeking children are going into unregulated accommodation, and nobody has got an eye on them. That is often what they say they want. What a child wants, however, is not necessarily what a child needs. I feel really strongly that we should be investing in specialist fostering from the community, so that children go into a family. Again, I remember having these conversations with Lord Murray. We talk about the right to a family life, to a family situation, with a language that they can understand. We can then make sure that their needs are met, that they are genuinely functioning as citizens, and are supported, protected and looked after. We are keeping an eye on it. We have the data, and we are watching every single child. What I cannot do is to find those who have gone missing. Maybe the National Crime Agency could, but I do not think that we would even know where to start. I am sorry to say that.

Baroness Lawrence of Clarendon: What area were those children in at

the time?

Dame Rachel de Souza: Those children will have gone to a range of hotels in Kent, on the south coast, some were in Birmingham, and some were elsewhere. These are the children who went missing from the hotels, and we would not know where they have gone, though we have asked this question a number of times. You would need to speak to the police and to others about this; the likelihood is that lots of them have gone to gangs to be put to work. We know that some of them turned up again, back in Kent, because it was so awful. These were older children and young people who were fed up waiting in their hotels, who were not learning a language, or who wanted to try to find the streets paved in gold and get a chance. We occasionally see children popping up, but I cannot find them. We can and do keep very close tabs on the children in the national transfer scheme. The worry there is about those children and young people going straight into unregulated accommodation: how are they then able to be part of society? What is happening to them, and what is happening with their education? Our Children Act states that those under 18 are children: going into a family-like situation would give us all a much better grip on who they were, how we could help them and what needed to happen with them.

Chair: Thank you. Mr Afzal Khan wants to come in with a quick supplementary to the question posed by Baroness Lawrence.

Q48 **Afzal Khan:** Thank you. You said that what children want and what they need may not be the same thing. I just want to take you back a little bit, because when you were talking earlier on, you said we must ask the children. I can understand that. How do we manage this in relation to social media, when we see that this is something that is coming and hitting us hard? We do not understand the full complexity of it, and the damage that it may be doing to children.

Dame Rachel de Souza: That is a great question. I have just been asked by the Government to look at the screen-time guidelines for children aged 0 to 5. I can tell you that I will sit down with the CMO and with loads of scientists, and they will say that there is no scientific evidence because we have not done 40-year longitudinal studies on the impact. There is a point where we have to say that this is a matter of values. This is a matter of us understanding child development, and understanding what—as a nation—we think a good childhood is. We are going to have to be fairly firm about that. I do not think that the scientists are going to give us the answer, so we are going to have to make those decisions, as we do all the time with children. While I am the No. 1 advocate for children's rights, we have to remember that a child exists within a family, and that child needs our protection, our support and our guidance.

Chair: Thank you. Before we leave the point that Baroness Lawrence was asking about, I note that on 13 March we had a reply to the letter that Baroness Lawrence sent. I would be very happy, and I am sure that the committee would agree, to share this reply with you. I think that we

would want to take this further as well; you have seen the strength of feeling.

Dame Rachel de Souza: My team would be very happy to do anything we can to pursue the whereabouts of these and any other children, and to share our research on that with you.

Chair: Thank you. Perhaps that can help us form the letter to the Minister for Border Security and Asylum, who wrote to us. Let us go to Baroness Kennedy and, after that, we are going to hear from Helen Hayes.

Baroness Kennedy of The Shaws: I keep going to call you Baroness—maybe one of these days you will be.

Dame Rachel de Souza: I am happy as Dame Rachel, but thank you.

Q49 **Baroness Kennedy of The Shaws:** If you were a Baroness and you were coming into the House of Lords this afternoon, how would you vote? There is going to be a vote on doing what the Australians have done. To take that step and to vote for it would be a “quick, now” measure. As you know, the House of Lords does not legislate on its own; it would just be an indicator of the strength of feeling. I do not want messing around: how would you vote?

Dame Rachel de Souza: I am not going to buck the question. Long before the Leader of the Opposition asked for a ban on social media, I was out there saying that we should consider a ban on social media.

Baroness Kennedy of The Shaws: Thank you. That is all I wanted to hear from you. That is great. The other thing that I am going to ask you about is something that you said today, but actually it draws on a report that you wrote in 2024. You set out that children in need make up a disproportionately large percentage of child deaths; you referred to that in your opening. Those deaths are much more likely to have derived from deliberate injury, abuse and serious neglect. What are the reasons for that? It is a combination of the business of poverty: what it does within relationships and family settings, and so on. Why does that put children more at risk of fatalities?

Dame Rachel de Souza: We are concerned about children in need, whom we are trying to support. Let us say your child is taken into care due to abuse or neglect. Many children will become children in need because they are on the cusp of that situation. It is the Section 17 group, the children in need, that is the group for whom I worry the most. Their educational outcomes are the worst—in fact, they are often not in school—and are far worse than those of children in care.

These children could be in abject poverty, in unstable homes, in unstable family set-ups, or—and this is where we need to see the change—at risk of abuse from within the household or from outside. Risks from outside are more prevalent, especially as we are talking about social media, and the intersection of all those things. Deaths could be gang-related, or as a

result of something in the home, or because we may have a parent working five jobs and neglecting their children; we may have someone looking after all the children. There are a range of things related to abuse and neglect on the pathway.

The legislation that is coming in through the Children's Wellbeing and Schools Bill does not address my worry, which is that in some local authorities we will see tiny amounts of work and a tiny focus on this, while some will have a huge focus. Some will have very good plans but some will not. There is no national threshold. We have 151 different systems, and so it is really tricky.

Chair: Thank you. We are fortunate today to have Helen Hayes MP. Helen is chair of the Education Select Committee and is guesting with us. She has a question for you and, after that, we will hear from Dr Swallow.

Q50 Helen Hayes: Thank you very much for having me today; it is good to be with you. Dame Rachel, you and I both know that the outcomes for children in the care system and when they leave it are a national disgrace, frankly, and that urgent action is needed to improve the outcomes for those children. You published a report recently about the criminalisation of children in care. I wondered if you could comment on the underlying reasons why children in the care system are overrepresented in the criminal justice system, and whether the action the Government are taking to boost spending in the care system, and particularly to expand the number of secure, stable homes for children in care, is the action needed, or whether there are further steps they should be taking?

Dame Rachel de Souza: We have done lots of work on this in the Children's Commissioner's office, and it is always shocking to me when I go into our youth offender institutes and see that about half the children there are care-experienced. We have really thorough data on this, and one thing it shows is that many of the children who are care-experienced—it is at least 50%—are engaged in the criminal justice system. That engagement happened after going into care, not before. The best way to explain it is this. You, the child, are at home and something happens: you break something or you hit someone. You do something wrong, and your family deal with it. But if you are in a children's home and you break something—if you do something you should not—the police are called. There is an incident form, and then you are on a certain path.

I met a child in prison who is now in a secure mental health ward. She had been fostered and had come from a truly traumatic background. I am not saying that the things these children are doing are right, but her doctor did not know what to do, so they called the police and, of course, she was arrested immediately, unfortunately. I have looked at police call-outs to children's homes. Not all police authorities keep this data, but for the ones that do, the figure is incredibly high and is a lot higher than that reported to Ofsted. For the few police authorities that do keep the

figures, there were about 10,000 call-outs to children's homes, and only 2,000 of those were reported to Ofsted.

So there is a clear issue: once you are in the care system, particularly in children's homes, and you do something that normal family life would deal with by trying to get you on the right path and putting you right, you become a documented incident. That is really happening. That first contact with police happens after coming into care.

I am really pleased that the Secretary of State decided to look again at the report we published on this and at police interactions with children in care. I am hoping that that will bear fruit and actually improve matters. The answer is a really simple one, Helen: children should not be in institutions. Children should be in loving families. When I speak to children in care—and I speak to all of them—they say to me, "I do not want social workers looking after me". Everyone knows how good social workers are and how hard they work, so I am not being critical of them. But what the children say to me is, "We want people who love us. We want someone who will stay with us". They want, in other words, stability, family life, and that is where the rights piece comes in.

Helen Hayes: With your permission, Chair, I will ask a related but slightly separate question concerning extrafamilial harm as a reason for children being removed into care, and the outcome—an issue about which I certainly have concerns. The system is just not very good at all. We remove children because there is a danger that is outside their home, and in doing so we often make them less safe. Is that a pattern that you recognise?

Dame Rachel de Souza: I never want just to be the naysayer and the bringer of doom, and I have seen some fantastic attempts to overcome that. For example, there is a trauma surgeon at the Royal London who, when a child comes in who has been stabbed, is flown in and he sews them up. He has his own little social services on his ward and, rather than them being taken away from their family, he moves the entire family there. The rate of reoffending is virtually zilch. We need to support the family. The child is not separate from the family. Taking a child away from their family is a disaster.

Chair: Thank you. My colleague Lord Dholakia has caught my eye and wants to ask a supplementary before we go to Dr Swallow.

Q51 **Lord Dholakia:** I just want to follow up Helen's question. On at least three occasions, I have raised the issue of the age of criminal responsibility in this country, which is very low indeed at 10, compared with any other country in western Europe. What have you done in terms of raising the age of criminal responsibility?

Dame Rachel de Souza: I would love to have the power to raise it to the same as the rest of Europe, but I do not. We do challenge on that, but I also think the challenge needs to be about what we do with our young people when they have done egregious things. When I look at the

system, what I do not see is the best interests of the child. The best interests of the child involve rehabilitating them in order to make them functioning humans, and providing help and support. We need to get more of that into the system. It is a bit like talking about rights and the law: we need far greater ambition. That is the baseline, but the far greater ambition has to be that our children grow up loved, happy and thriving, experiencing a childhood as it should be.

Chair: Thank you. We will hear from Dr Swallow and then from Lord Murray.

Q52 **Peter Swallow:** A few weeks ago, you published a report on children living in illegal children's homes. Can you set out for us your main findings and any recommendations you have to ensure that no child is living in unlawful and unsafe accommodation?

Dame Rachel de Souza: Yes. This conversation about the rights of children is perhaps one of the most horrendous bits of work I have ever had to do. We have about 700 children living in illegal children's homes, and last year that cost the state £350 million. These are the million-pound children, and the cost is at least £10,000 week. About a third of them are deprived of their liberty. I have lots of data, and they are a subset of this group. So what does it mean to be an illegal in an illegal children's home? Ofsted takes up to 18 months to regulate a children's home and set it up, so some of it is just a pace issue. I visited a children's home on the Isle of Wight two days ago. At the moment it would be considered unregulated because Ofsted is taking so long to regulate it. We are talking about 700 children: it should get on with it and deal with it. It is straightforward: get the job done.

Some of it is far more insidious. I am talking about difficult, vulnerable children who are often the most difficult cases. I know many of them. I have spoken to them, and they might be extremely difficult. They find themselves being put in a B&B with security guards, or in a tent or a caravan. Some 3% of these children are in holiday home-type activity centres because there is nowhere else to put them. There is a clear capacity issue. I do not think that any director of children's services wants to put a child in this situation, but they do and they are, and to me it is the most egregious thing. If I have one message for Government and for Ofsted, it is: 700 children—sort it out. You can do it. You are spending £350 million a year.

I am so cross because I did this data last year, and the figure was about 770 children, so they have dealt with only 50 or so, and many of them are the same children. Pace is a really important issue here.

Peter Swallow: I notice that you did not set out in your report which local authorities have what number of children. I know that not all answered your request for data, but have you considered naming and shaming the worst offenders?

Dame Rachel de Souza: I do have that data and we are talking to local authorities about it. This is where there should be a proper drive from Government. What should Government be doing to sort this out? It can lean on these various areas and sort out the regulation problem.

Chair: Thank you. It is one of the responsibilities of this committee to try to add some pressure as well. As you have responded so well to Dr Swallow's question, perhaps you could talk further to some of our team here managing this inquiry to see if there is data you can share with us, because I think we will want to reflect on the staggering figures you have just given to us when we come to report. We come now—

Baroness Lawrence of Clarendon: May I ask a question before we move on to the next subject?

Chair: Certainly, but I remind the committee that we have a number of questions to get through and we have to finish by three o'clock.

Baroness Lawrence of Clarendon: I do understand. On unlawful and unsafe accommodation, are we talking about children who come off the boats? Are they children of parents from this country? How do these children manage to get into these places? Who recommends that they go there?

Dame Rachel de Souza: It is often children deprived of their liberty—they account for a third of the group—with extremely complex issues who fall between services. One of the problems is that health does not want to say it is a mental illness, and social care says it is a mental illness. These children display extremely complex needs. In the old days, they would have all been thrown into the justice system. No London borough has secure children's homes, so there are no beds, and the poor old President of the family courts is going mad, because every Friday his judges are asked to deprive these children of their liberty. We often try to convene in order to help. These are very complex children who often fall between services, and that is why Government needs to say, "We have got to sort it: 700 kids—you can do it". It is not a million, is it? It is 700.

Chair: It is a good challenge to Government, and to us as well. Thank you for that. We will hear from Lord Murray, and then from Sir Desmond Swayne.

Q53 **Lord Murray of Blidworth:** Thank you very much, Lord Alton. Dame Rachel, it is lovely to see you again. Obviously, we had our long discussions when I was Minister for Migration and Borders about these difficulties and how to keep the children in the unaccompanied asylum-seeker hotels, which are, of course, open; they could walk out.

In your introductory remarks, you observed that the UN Convention on the Rights of the Child underpinned a lot of what went into the Children Act. Is there anything significant, in the rights guaranteed by that convention, that is not protected in the Children Act, and if so what do you suggest we do about it?

Dame Rachel de Souza: The Children Act has been very good for 30 years. I am very respectful of Baroness Butler-Sloss's work and that of others who have amended the Act. It was really about protecting children, keeping them safe and hearing their voice. So those are the bits of the convention that are perhaps most embedded, and they are incredibly important.

I would like to answer your question in two ways. First, we want children to thrive, to be part of a successful family, to have a happy childhood and to get a great education. Those are the things I would like us to focus on. It is a shame that we are sitting here talking about embedding the UNCRC because some things are so bad. Would it not be great if we were talking about how to improve education even further? For example, the educational outcomes and attendance of lots of these children in the groups we are talking about is dire. For me, there is a real interest in saying that the UNCRC should just be the minimum standards. We should have a greater vision for childhood, especially in this great country. Children should have a family life.

Secondly, as a children's commissioner, I am part of an international network of children's commissioners, so I see how everyone does it all around the world. I have been deeply impressed by the Nordics. Frankly, everyone I spoke to in Oslo, from the chief of police to the Minister to the hospital, used the same language and had the same vision for children, based on the UNCRC. They all talked about best interests of the child, and there was a genuine agreement that they were going to support childhood. I go to the brilliant Queensland Children's Hospital in Brisbane, where children's rights are superbly supported. I flew to Alice Springs, against the Government's recommendation, to see Aboriginal children involved in the riots; their rights were deeply unprotected. We are quite a centralised country. Looking around the world, we need to decide how we want to talk about and protect childhood, and how we want to continue our long tradition. One of the bits missing from the Children Act is an update on the deprivation of liberty, which is very important.

We need to look at Section 17 regarding children in need. The things in there on disability are, frankly, insulting to disabled children, because things have moved on so much and the language has changed. I am very supportive of the Law Commission talking about the need for new legislation on that. I have a massive list that I ought to write to you about and share with you, but those are my big ones.

Chair: That would be very helpful. Examples of best practice never go amiss. We will explore the question of children with disabilities in a moment, with Mr Afzal Khan, but first we have a question from Sir Desmond Swayne.

Q54 **Sir Desmond Swayne:** To what extent are children in care able to exercise a right to a family life?

Dame Rachel de Souza: In terms of hearing the voices of children in care, that is probably their biggest and most important concern. One of

my biggest worries is the way we separate siblings, often. If you are in care, it is normally because your relationships have been torn apart. You have been taken into care because of neglect or abuse. It is heartbreaking. Some 20,000 children have talked to me about being separated from their siblings—the one relationship that they thought they could keep stable. I have looked into that, speaking not only to the children themselves but to the authorities, and their view is that it is just a lack of capacity or some misplaced desire to say that the children have different needs, whereas actually, their prime need is really to stay with their sibling. The Children's Minister is very good on this now, and we have encouraged them to rocket-boost fostering so that families can be kept together.

Chair: Thank you. We will now hear from Afzal Khan, and then Juliet Campbell MP.

Q55 **Afzal Khan:** In our last oral evidence session for this inquiry, we heard about the Law Commission's recommendations for changes to the disabled children's social care legal framework, which were also set out in its report. Are there particular concerns that you share with the Law Commission in this field, and any recommendations that you support?

Dame Rachel de Souza: We absolutely support the Law Commission's work in this area, right to the roots of the Children Act not really being fit for purpose any more for disabled children. I just remind everybody that one of the worst cases of institutional abuse that I have seen in decades was the Hesley abuse case. You had children with the most complex needs, living away from home, experiencing the kind of abuse that we have not really heard of for decades. There is a real limit for advocacy for those children, especially those who are not able to talk in the normal way. It is really important that we do something about it. We have supported the Law Commission's recommendations and done lots of work with the families on this.

I would go even further. When the SEND system developed the model it has now in 2014, about 3% of children had EHCPs—they were children with the most complex needs. That number has stayed fairly similar, but those families are fighting for their children against a massive growth in neurodiverse conditions and children getting EHCPs. We need to look at that very complex need group and recognise that if you have Down syndrome or cerebral palsy, you should not have to apply every year for your support. We need to support you right from the start, right the way through. That is what we should be doing.

Chair: That certainly rings bells with me, having a million years ago worked with children with special needs, so thank you for that answer. Now we are going to turn to Juliet Campbell, and after that to my colleague Lord Dholakia.

Q56 **Juliet Campbell:** Thank you, Chair, and thank you, Dame Rachel, for the answers to all those questions; you have answered them very well and given us a good overview.

There are other issues that are raised concerning young people, and I am going to talk specifically about the adultification of children—children being treated as if they are older than they actually are. This typically happens to children and young people from marginalised or minority backgrounds. They are treated and perceived as if they are older than they actually are. They are given more responsibilities than they should have at that age, and we know that that impacts on their mental health. To what extent do you perceive the adultification of children in care to be an issue—children, particularly over 16, being treated as if they are adults? Do you think that this raises any human rights concerns?

Dame Rachel de Souza: If we look at the youth offender institutions—children in the care of the state—you can see massive overrepresentation of black children. Adultification is absolutely rife there. I work very closely with Keith Fraser, the chair of the Youth Justice Board, on this, and Baroness Lawrence is sitting here. One lesson we have learned is that if the data shows us that that something is happening, it is happening, and we need to address it systemically. I feel really strongly about that, particularly regarding the overrepresentation of black boys in the criminal justice system. There is overrepresentation of black boys as care leavers as well. We can see that absolutely clearly—black boys and girls in the care system. The police are aware of this. I have been working with education data and other data as a headteacher for many years, but it was when Child Q was strip-searched in her own school by the police that I used my powers to call for strip-searching data from the Met Police, and then from every single police area. I have continued to call for that data, year on year. Now, the Met Police have halved the number of strip-searches; Hackney has not had one since.

You can absolutely see the overrepresentation of black children, and it is unquestionable that adultification is taking place. It is seen as being bad, and something needs to be done. I have mums calling me up telling me about their little year-7 child who was top of the class, standing outside McDonald's with his earbuds in, waiting for Mum to pick him up, and whoosh: he is strip-searched. The police commissioners are much more aware of this now. Numbers are getting better, and the data is better. We have to concentrate on the data. The data gives the evidence, and then we can do something about it. We have managed to change the PACE codes to get things done and improve the situation. But we need to keep shining a light on it—looking at the data and shining the light.

Juliet Campbell: You have painted a worse picture than the one that was in my head.

Dame Rachel de Souza: Sorry. It was just that one particular issue.

Juliet Campbell: Does adultification happen more with children who are care-experienced?

Dame Rachel de Souza: There has been this very difficult situation with 16 and 17 year-olds—this idea that somehow at 16 and 17 you are a grown-up and can live on your own. Very few children cope can with that.

My view is that they cannot until they are 18. We are the corporate parent. My 30 year-old still comes home and gets his breakfast cooked and has his mum look after him. Up to 18, people should be treated as children in families, and we should not be even considering anything else. I am really firm on that: no institutions, no sending them off to live on their own at 16 and 17.

Juliet Campbell: Finally, do you think this raises human rights concerns?

Dame Rachel de Souza: Yes, certainly around strip-searching, black boys, and the prison population. I also worry about 16 and 17 year-olds and their right to a family life, an education, and to be able to thrive, which is really important. We talk about it in a slightly different way with the children themselves, though.

Chair: Once you have thought about this further, if you want to, please to write to the committee setting out any other points. You have made some very significant points in your answer to Juliet Campbell. But if there is anything else you want to add, the committee would certainly want to think about it when we come to write our report. We are going to turn to the penultimate question now, from my colleague Lord Dholakia.

Q57 **Lord Dholakia:** In your opening address, you mentioned your work with vulnerable children. To what extent do young care leavers have access to housing, employment and education, and do we need stronger resolutions to make this possible for them?

Dame Rachel de Souza: In my conversations and work with care leavers, they tell me that they do not feel that their needs are being met. There have been some recent positive changes around dentists and healthcare. One of the reasons we are seeing this massive push from the care-leaver community to try to make being a care leaver a protected characteristic is that they feel so ignored. We need to get more into the space that being a corporate parent does not stop at 18. I was talking to one lad who said, "You know, most lads, when they turn 18, their dad will take them to the pub and give them their first pint—whereas I am just getting more and more anxious, because I am just going to get a black bag to put my stuff in and go".

Q58 **Chair:** The clock is against us, but we have just a couple more minutes, and the Chair gets the privilege of the last word. Are there any things that we have not covered? We have had a terrific array of questions from my colleagues and you have delved deep into the issues that we have been confronting during this inquiry. We will want to come back to you, I have no doubt, for further information, advice and wisdom, but are there any things we have not covered that you think we should be aware of, or any human rights questions you want to flag that affect the position of children in care?

Dame Rachel de Souza: I could give you a pile of those, but where I would like to end is just by saying that this committee is incredibly well placed to help us review whether the Children Act is fit for purpose and

what is missing from it. If we were going to think about children's rights or, in our funny little national way, do something meaningful about how we protect and value children and childhood, we would need a flight path to think about how to do that, and it is extremely useful to have a committee of such great brains and heart as this one to be able to do that well. I really value you. I have 14 months left in this role. If something like that were to happen, maybe this role should be filled by a lawyer who could do that. There are some really interesting questions about what comes next that I would really appreciate both Helen's Select Committee and this committee's view of and attention to.

Chair: Thank you very much indeed. We are finishing right on the dot, which says quite a lot for you as well. You have been a wonderful witness and we have been really privileged to have you here today. It is often said that how a society treats its children is a test of how civilised it is. Well, one thing is for sure: the children of this country have a wonderful commissioner who is articulating to us so well so many of the things that they have been saying to you. I hope you will not see this as the end of the conversation but will continue to engage with the committee as we continue to work on this report. Thank you again, Dame Rachel, for being with us today. I am going to suspend the hearing and we will re-engage, showing that we paint on a wide canvas, to talk about AI and human rights.