



Human Rights Law Clinic Papers 2023

DOMESTICATING THE RIGHTS OF CHILD HUMAN RIGHTS DEFENDERS: THE PILOT CASE OF MOLDOVA

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List of Abbreviations

CRC	Convention on the Rights of the Child
CHRDs	Child Human Rights Defenders
CRCnct	Child Rights Connect
CRIC	Child Rights Information Centre
CSO's	Civil Society Organisations
DGD	Day of General Discussion
DHRD	Declaration on Human Rights Defenders
HRD	Human Rights Defender
HRE	Human Rights Education
ISHR	International Service for Human Rights
NGOs	Non-Governmental Organisations
NHRI	National Human Rights Institutions
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child (used interchangeably with CRC)

1. Introduction

This memorandum critically analyses the proposed comprehensive Human Rights Defenders Law in Moldova from the perspective of Child Human Rights Defenders (CHRDs) and suggests key elements to be included in a specific section for children to ensure that the new law is fully inclusive of a child rights approach. The memorandum complements the collaborative effort between Child Rights Connect (CRCnct)¹ and the Child Rights Information Centre (CRIC),² with the aim of contributing to the establishment of a comprehensive and effective legal framework for the equal empowerment and protection of CHRDs, both generally and specifically in Moldova.

As detailed in the client's brief, the Human Rights Ombudsperson of Moldova has called for a new law on human rights defenders, with a specific section on CHRDs. In response to this call, CRCnct and CRIC Moldova have already submitted a written contribution that significantly integrates a child rights perspective. This memorandum builds upon that contribution and provides a detailed analysis of the Model Law developed by the International Service for Human Rights (ISHR)³ from the perspective of CHRDs because the Ombudsperson's proposal explicitly refers to the Model Law as the reference tool for the new law.

In addition to supporting CRCnct's advocacy in Moldova for the creation of a specific section for CHRDs, the memorandum also considers how child rights can be mainstreamed in the comprehensive HRD Model Law. By incorporating the recommendations from The Rights of Child Human Rights Defenders: Implementation Guide (The Implementation Guide)⁴ developed by CRCnct and our own research, and taking into account that the Model Law does not go into the specificities of different groups of defenders but acknowledges that "it is imperative that any national law on the protection of human rights defenders be developed and implemented in close consultation with defenders and other civil society actors and apply a gender perspective and a sensitivity to the particular situation and protection needs of women human rights defenders and other groups or categories of defenders who are exposed or at risk". The memorandum identifies the following gaps in the Model Law:

- The absence of a specific definition for the term CHRD

¹ Child Rights Connect, (childrightsconnect.org 2020) <<https://childrightsconnect.org/>> accessed 4 March 2023.

² Child Rights Information Centre <https://drepturilecopilului.md/files/Pliant_CIDDC_eng.pdf> accessed 28 February 2023.

³ International Service for Human Rights, Human Rights Defenders: Protecting the Right to Defend Human Rights, (Geneva 2017).

⁴ Laura Lundy, 'The Rights of Child Human Rights Defenders: Implementation Guide' (Child Rights Connect, 2020).

- Lack of emphasis on child participation
- Lack of accessibility for CHRDs and
- Insufficient provision for international cooperation.

Overall, the memorandum reveals how the Model Law could be further elaborated in line with international human rights standards specifically concerning CHRDs.

Following these introductory remarks, the first section analyses the legal context for CHRDs in Moldova. The next section analyses the Model Law and expands on the aforementioned gaps in the Model Law, detailing avenues to bridge those gaps using the Implementation Guide as well as noting opportunities to mainstream CHRDs rights, afterwards, the concluding remarks and recommendations for mainstreaming are identified.

1.1. Legal Backdrop/Context for CHRDs in Moldova

The issue of inadequate attention to the rights of CHRDs has increasingly become recognized in recent years.⁵ Despite this recognition, CHRDs still face numerous challenges and obstacles, ranging from restrictions on their freedom of expression and assembly to violence and harassment from state actors and non-state actors alike. These challenges disempower CHRDs and undermine their ability to defend human rights effectively. As such, the importance of developing a comprehensive and effective legal framework to support CHRDs, protect their rights, and empower them cannot be overemphasized.

Moldova has made significant strides in recognizing the role and rights of human rights defenders, including through the adoption of laws and policies that protect and support their work.⁶ However, the legal framework for the protection of CHRDs in Moldova is still relatively new and presents opportunities for further development.

The Parliament of Moldova adopted a law about child's rights, which recognizes the right of children to participate in decision-making processes that affect their lives, such as expressing their views on issues that concern them.⁷

However, this law does not specifically address the protection of CHRDs, nor does it provide clear guidelines for how the government and other actors should support and protect the work

⁵ Vicky Johnson, Andy West, *Children's Participation in Global Contexts: Going Beyond Voice* Vicky Johnson (Routledge, 2018) 232.

⁶ OHCHR: National Human Rights Action Plan of the Republic of Moldova. Approved by the Parliament of the Republic of Moldova by Resolution No. 415-XV of 24 October 2003 <<https://www.ohchr.org/sites/default/files/Documents/Issues/NHRA/moldova.pdf>> accessed 16 March 2023.

⁷ Law of the Republic of Moldova December 15, 1994 No. 338-XIII, (*cis-legislation.com*, 28 July 2016) <Law of the Republic of Moldova "About the child's rights" (*cis-legislation.com*)> accessed 14 May 2023.

of CHRDs. Furthermore, the law does not reflect the international standards set forth in Articles 12, 13, 14, and 15 United Nations Convention on the Rights of the Child (UNCRC)⁸ and Articles 1, 5(b), 12, 13, 18 of the Declaration on Human Rights Defenders (DHRD),⁹ both of which recognize the important role of 'children' and 'everyone' respectively in promoting and protecting human rights.

Despite these seeming limitations, the government has taken some steps that have the potential to support the work of CHRDs such as the establishment of youth councils and other mechanisms that provide opportunities for children and young people to participate in decision-making processes.¹⁰ Again, these initiatives are not specifically designed to support the work of CHRDs in Moldova.

Moldova is a party to the Convention on the Rights of the Child (CRC) and its Optional Protocols, as well as a range of international human rights treaties; there are also other legal and policy frameworks in the country which are relevant to the empowerment and protection of CHRDs. These include:

- The Constitution of Moldova: The Constitution of Moldova provides for the protection of fundamental rights and freedoms, including the right to freedom of expression, association, and assembly. These rights are essential for the empowerment of children and CHRDs, as they allow them to express their opinions and advocate for their causes.¹¹
- Law on Non-Governmental Organizations (NGOs): The Law on NGOs provides a legal framework for establishing and operating NGOs in Moldova. This law allows CHRDs to establish organizations that can advocate for their causes and provide a platform for their activism.¹²
- National Strategy on Child Protection: The National Strategy on Child Protection is a policy framework that outlines the government's priorities and objectives for promoting the well-being and protection of children in Moldova. This strategy

⁸ United Nations Convention on the Rights of the Child (adopted 2 September 1990) Res 44/25 of 20, A12, 13, 14, 15 (UNCRC).

⁹ Universal Declaration of Human Rights (adopted 10 December 1948) GA Res 217 A1, 5(b), 12, 13, 18, UN Doc A/810.

¹⁰ Republic of Moldova (n 3).

Government of Moldova, 'Ministerul Educației și Cercetării al Republicii Moldova' (mecc.gov.md 2023) <<https://mecc.gov.md/en>> accessed 15 May 2023.

¹¹ *Constitution of the Republic of Moldova* [Republic of Moldova], 27 August 1994, available at: <https://www.refworld.org/docid/3de4a8237.html> [accessed 1 April 2023].

¹² CIS Legislation: Law of the Republic of Moldova About Non-Profit Organizations. Article 5 (2020)(86) (as amended of the Law of the Republic of Moldova of (2021)(218) <<https://cis-legislation.com/document.fwx?rgn=126748>> accessed 30 March 2023.

includes provisions for the empowerment and protection of children who are involved in activism and advocacy.¹³

- National Action Plan on Human Rights: This policy framework outlines the government's priorities and objectives for promoting and protecting human rights in Moldova. This plan includes provisions for the protection of human rights defenders, which apply to CHRDs as well.¹⁴

Although these legal and policy frameworks exist, the situation for CHRDs in Moldova remains challenging. Discrimination, intimidation, and violence against CHRDs have been reported, including by state and non-actors.¹⁵ In 2018, the Committee on the Rights of the Child expressed concern about the lack of adequate protection for CHRDs in Moldova and recommended that the country strengthen its legal framework and protection mechanisms for these children.¹⁶

Also, there was an emphasis by the Committee on greater attention to be paid to the rights of children and young people in the country, particularly those who are engaged in promoting and defending human rights. This includes CHRDs, who face significant challenges and risks as they seek to promote and protect human rights in their communities and beyond.¹⁷

In the most recent rounds of Concluding Observations, the Committee emphasised the importance of states protecting and supporting CHRDs in response to the Colombian report. The Committee urged the state to 'respect, protect and fulfil the right to freedom of expression, association and peaceful assembly of all children, including child human rights defenders.'¹⁸ To address these challenges and promote the rights of CHRDs, the need for a specific section within Moldova's comprehensive HRD law that is dedicated to the protection and support of this set of activists cannot be overemphasized. This section should include

¹³ UNICEF, 'Moldova Child Protection Strategy' (gdc.unicef.org 2019) <<https://gdc.unicef.org/resource/moldova-child-protection-strategy>> accessed 27 February 2023.

¹⁴ Council of Europe: Moldova National Human Rights Action Plan for the period 2018-2022 <<https://www.coe.int/t/commissioner/source/NAP/Moldova-National-Action-Plan-on-Human-Rights-2018-2022.pdf>> accessed March 7 2023.

¹⁵ Human Rights Situation in the Republic of Moldova With Focus on the Rights of Child Human Rights Defenders, United Nations Human Rights Council, Universal Periodic Review (UPR) 40th Session (January – February 2022); United Nations Human Rights Council, *Prevention and Investigation of Torture in the Republic of Moldova and the Right to Rehabilitation of Victims of Torture [Universal Periodic Review]*, January – February 2022, available at <[Torture_UPR-Fact_sheet_Republic_of_Moldova_2021-56.pdf](#) (omct.org)> accessed 14 May 2023; United States Department of State, *Moldova 2021 Human Rights Report Executive Summary*, (Bureau of Democracy, Human Rights and Labor 2021) <[MOLDOVA 2021 HUMAN RIGHTS REPORT](#) (usembassy.gov)> accessed 14 May 2023.

¹⁶ OHCHR: Committee on the Rights of the Child: Concluding observations on the combined fourth and fifth periodic report of the Republic of Moldova. Published 4 October 2017 CRC/C/MDA/CO/4-5 (2017).

¹⁷ Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the Republic of Moldova, UN Doc. CRC/C/MDA/CO/5 (2018).

¹⁸ Committee on the Rights of the Child, 'Concluding observations on the combined fifth and sixth periodic reports of Colombia', CRC/C/COL/CO/5-6, 27 May 2021.

provisions that recognize the unique risks and challenges faced by CHRDs and provide them with the support and resources needed to carry out their work safely and effectively.

Currently, there is no specific legislation in Moldova that addresses the protection and promotion of the rights of CHRDs. Instead, their rights are generally protected under the CRC and other international human rights treaties ratified by Moldova, as well as national legislation on child protection. So, there is still a need for a comprehensive legal framework that addresses the specific challenges faced by CHRDs in Moldova.

Evidently, the creation of a specific provision would help Moldova meet obligations and address the concerns of the Committee. In addition, it is noteworthy that while the protection of CHRD's rights is crucial, it is not enough. To be truly effective, the focus of CHRDs rights must extend to empowerment which is a multi-dimensional social process that involves providing these children with the tools, resources, and opportunities that foster their confidence to actively participate in issues that they identify as important within society such as defending their rights and the rights of others.¹⁹

2. Model Law Analysis

The Model Law on the protection of HRDs developed by ISHR provides a legal framework for the protection of individuals who work to promote and protect human rights. While this Model Law is an important step towards the protection of HRDs, including CHRDs, there are several gaps that need to be addressed from the perspective of CHRDs. For instance, the Model Law does not contain specific provisions that address the unique risks and challenges faced by CHRDs. Children who engage in activities to promote and protect human rights are particularly vulnerable to abuse, harassment, and violence. As such, they require specialized protections that take into account their age, vulnerability, and specific needs.

Furthermore, along with constructing a specific provision, the rights of CHRDs must be mainstreamed throughout the comprehensive HRD law, including its implementation, monitoring, and evaluation, to reflect a commitment to protecting and promoting the rights of children and young people. To achieve this, the Model Law could include provisions for child-sensitive indicators and benchmarks that allow for the measurement of progress in the protection and empowerment of CHRDs. This could be complemented by the establishment

¹⁹ Page Nanette, Page, N, 'Empowerment: What Is It?' [1999] EJ 37.5
<https://www.gcph.co.uk/assets/0000/6278/Nurturing_Citizenship_in_the_Early_Years.pdf> accessed 20 April 2023.

of a separate national monitoring mechanism that regularly assesses the implementation of the law in relation to CHRDs.

2.1. Absence of a Specific Definition of Child Human Rights Defenders (CHRDs)

The recognition and respect for children and by extension CHRDs starts with establishing the definition of a CHRD. The Model Law does not define, nor does it recognise who qualifies as a CHRD, and therefore the particular vulnerabilities that come with their age are ignored. Without a clear definition of who a 'Child Human Rights Defender' is, it is difficult to ensure that their specific needs and vulnerabilities are considered. To address this absence of a definition, the new comprehensive HRD Model Law should include the definition of a CHRD within the more general definition section of the Model Law rather than within its own individual section as a way to show their relevance alongside their adult counterparts.

Within the Model Law, Part One General Provision, Section Two, provides the following definition for a human rights defender:

A "human rights defender" means any person who, individually or in association with others, acts or seeks to act to promote, protect or strive for the protection and realization of human rights and fundamental freedoms, at the local, national, regional and international levels.²⁰

Here, after this initial definition, presents an opportunity to insert the definition of a CHRD. While the definition does mention 'any person' who could include a child HRD, by placing the specific definition of a CHRD within this section, the interpretation of a CHRD may be guided and extend to other discourses outside the law in Moldova.

According to the Implementation Guide, the definition of CHRDs is 'children who take actions to promote, protect and fulfil human rights, including children's rights, are human rights defenders, even if they do not see themselves as such, or are not considered and called as such by others'.²¹

This definition addresses the misconception that CHRDs only work on children's rights as well as adult resistance to CHRDs. However, there are ways the definition can be taken further. The definition of CHRDs mirrors that of HRD in some ways by including similar words and phrases. However, there are slight connotations within the Implementation Guide's definition

²⁰ (n 3) 2.

²¹ Lundy (n 4) 7.

that place more emphasis on the vulnerability of CHRDs rather than recognising CHRDs as agents of change when it comes to human rights advocacy.

Firstly, the definition refers to the consideration of 'others' when it comes to identifying as CHRDs regardless of such consideration. Acknowledging the agency of others over children within the definition of CHRD may contribute to a language of oppression, as the term 'others' subconsciously highlights the institutional power over children's agency. While it is important to highlight the traditional hierarchy of adulthood over childhood, philosopher Foucault explains, 'It is important to acknowledge power locates itself at many levels rather than solely focusing on centralised forms of power; because if power is only seen as centralised then other knowledge is marginalised or silenced'.²² Even though the definition highlights that the perceptions of 'others' are irrelevant, the centralised form of power in this case lies with adults as a focus on the issue of their resistance to CHRDs takes away from the agency of CHRDs being acknowledged and empowered within their own definition.

Secondly, this definition takes on a plural context when describing CHRDs, placing them into a collective identity. While defining CHRDs as a group has positive elements in terms of empowerment through collaboration, it can be argued that this plays into a language of 'othering' where individual identity is absent. According to Lovelace 'targets of oppression are subject to containment, having their choices and movements restricted and limited, are seen and treated as expendable and replaceable, without an individual identity apart from their group, and are compartmentalized into narrowly defined roles'.²³ Addressing them singularly rather than collectively empowers them. While it is still important to highlight the specific needs of CHRDs as more vulnerable HRDs, their empowerment must be prioritised within the definition, in order to change the narrative and ensure that CHRDs are perceived to be as powerful and legitimate as any adult counterparts.

Also, the Model Law in Section 2 includes a non-exhaustive list to further clarify the definition of a human rights defender. Here, the Implementation Guide's examples as detailed in section 2.2, CHRDs could be inserted as an extension of the non-exhaustive list to further recognize the agency of CHRDs.

²² S Wendt, 'Applying Post-structuralist Ideas to Empowerment: Implications for Social Work Education' [2010] TIJ 670, 676.

²³ Tonya Lovelace, 'Power & Privilege Definitions' (vanderbilt.edu 2003) <<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.vanderbilt.edu%2Foacs%2Fwpcouplings%2Fsites%2F140%2FUnderstanding-Privilege-and-Oppression-Handout.doc&wdOrigin=BROWSELINK>> accessed 29 March 2023.

2.1.1. Other Terms for CHRD

Article 1 of the CRC states, 'Everyone under the age of 18 has all the rights in the Convention'.²⁴ Therefore, anybody under the age of 18 defending rights can be labelled a CHRD. While the term 'child' works favourably as an umbrella term for different age ranges, there are people of certain ages who may find it quite restrictive. Liebel notes that 'by no means do all young people under the age of 18 still perceive themselves as children and some even understand such a classification as age-based discrimination'.²⁵ Children want to be taken seriously, and typically from a young age, resent the idea of being labelled a child as it can come with a societal attitude of belittlement. 'Children may resist, or refuse to recognize themselves, in adults' definitions—and in this respect, adult power is very far from absolute or uncontested'.²⁶ This is why empowering CHRDs within the definition is so vital in this new section on CHRDs and needs particular attention.

Terms such as youth, adolescents, and young persons may resonate better with older children. These terms are effective for the recognition of their age status and maturity when it comes to how seriously their views are taken. Lansdown suggests that 'while there is no restriction on the right to express views other than the capacity to form them, the weight afforded to those views must take account of the age and maturity of the child'.²⁷ It may be worth using other terms for children, such as youth, adolescents, and young persons in the interest of encompassing as many ages as possible. However, there is a counterproductive element to be wary of, as creating more division/categorization may lead actors to place more value/respect on some views over others, yet, including more terms for children may encourage the participation of more ages and ensure inclusivity and empower CHRDs. This could be achieved by utilizing the comment box under the definition section of the Model Law to identify 'child' as an umbrella term for many ages and levels of maturity.

2.2. Lack of Emphasis on Child Participation

By neglecting child participation, the Model Law misses an opportunity to meaningfully engage children in the promotion and protection of human rights. CHRDs are the best advocates for their own rights, and their participation in decision-making processes is essential to ensure

²⁴ (n 8) Art 1.

²⁵ M Liebel, 'Welfare or Agency? Children's Interests as Foundation of Children's Rights' [2018] TIJCR 597, 600.

²⁶ Lee Jeromea and Hugh Starkey, 'Developing children's agency within a children's rights education framework: 10 propositions' [2022] Education 3-13 439, 440.

²⁷ Gerison Lansdown, 'Article 12: The Right to Be Heard' in Ruggiero, R. (eds), *Monitoring State Compliance with the UN Convention on the Rights of the Child* (1st, Springer, Cham, Berlin 2022), 45.

that their needs and concerns are adequately addressed. They have a right to participate in decisions that affect their lives and the lives of those around them.

Suggestions on how CHRDs can be meaningfully involved in the design and implementation of their empowerment are detailed in the Implementation Guide. Exploring certain aspects of these suggestions emphasises the requirement of a specific section for CHRDs in the Model Law. In this section, we explore how to take the Implementation Guide's illustration of child participation further and what meaningful child participation may look like in Moldova with a focus on Moldovan youth councils as a major mechanism of empowerment.

2.2.1. Interpersonal Relationships

Interpersonal relationships involve the multi-faceted relationships between children and other members of society, which can include family members, teachers and other providers of care/protection for children. In relation to child participation, it is necessary to normalise child empowerment within the individual and collective relationships of children in Moldova. This will aid in systemically addressing the lack of concern for child participation in civil and political matters and promote a societal shift in the attitude towards children's agency. As Ciurria states, 'Young people are worried about a wide range of political issues, especially those that disproportionately affect their generation. They are competent social actors participating in ways which have political influence and are important in the formation of their political identities'.²⁸

The Implementation Guide has identified that the chance for children and youth to express themselves typically resides within educational or familial spheres, particularly within its sections 3.2. **Parents'/Guardians' Rights and Duties** and sections 3.3. **Education Rights**. This is supported by Jerome and Starkey, who note, 'children's space for resistance is largely that of interpersonal relationships, amid the 'micro-politics' of the family or the classroom'.²⁹ It is within the 'micro-politics' of children's interpersonal relationships that their voices are heard and it is up to the adults who fall within children's interpersonal relationships to take them seriously as CHRDs.

Child participation can come down to simple mutual respect between adult and child within conversations. Parents/legal guardians are typically the first point of contact and root of communication for the child. This is why the parent/guardians' role in encouraging child

²⁸ Mich Ciurria, 'Children as an Oppressed Class (biopoliticalphilosophy.com 2021) <<https://biopoliticalphilosophy.com/2021/08/02/children-as-an-oppressed-class/>> accessed 29 March 2023.

²⁹ Jeromea and Starkey (n 26), 440.

participation cannot be underestimated. This can be taken further within a potential new section on CHRDs. Ciurria notes that ‘traditional perceptions of children as objects and as the ‘property’ of parents and elders rather than as subjects of rights hinder their right to express their views and to participate in the family, schools and local communities’.³⁰ When it comes to breaking away from these traditional perceptions of children and following through on ensuring a progressive nurturing of child participation, the new section may include more specific directions on how parents/guardians can effectively encourage child participation. Jerome and Starkey suggest, the ‘language of agency’ can be embraced to fulfil the ‘need for adults to respect the agency of children to adopt processes to build children’s sense of their own agency and their actual ability to exercise agency’.³¹ This is relevant when it comes to CHRDs as they are particularly vulnerable to oppression as they engage with the structures around them in pursuit of their causes. Within Part III, Section 22 of the Model Law. ‘*Public authorities shall take all necessary measures to ensure.....*,’³² another subsection (d) can be inserted that includes the obligation to respect and encourage CHRDs in particular, noting the likelihood of their additional vulnerability to disempowering attitudes. (See Annex 1).

As the Implementation Guide notes,

a key question is what the boundaries are and when, if at all, parents or guardians can deny their children permission to act as CHRDs or limit the activities in which they take part. CHRDs recognize the need for support and guidance from parents and adults in their communities.³³

It is imperative that the new section of the law on CHRDs applies the Implementation Guide’s values regarding the duties of caregivers of children. The new section can even further emphasize how these interpersonal relationships should reflect a progressive nurturing of child participation. Thus, the new section could adopt this ‘language of agency’ and offer guidance to encourage and empower CHRDs leading to more constructive relationships for parents/guardians and other adults in general. For instance, within the proposed specific section, the law could promote educating adults on CHRDs, particularly adults who work in institutions with children. Additionally, the new section can outline how to effectively encourage and value the opinions of children more generally as a method of infusing the language of agency into the law.

However, there is a need for more than just conversations when it comes to child participation. Further clarification on facilitating child participation and more progressive social settings for

³⁰ Ciurria (n 28).

³¹ Jeromea and Starkey (n 26) 441.

³² (n 3) 20.

³³ Lundy (n 4) 27.

CHRD's voices to be heard should also be explored in this new section. This will involve exploring how their voices can make an impact so that their agency in Moldova is not just restricted to educational and familial settings, but rather a starting point. An example of this is Ireland's 2021 National Framework for Children and Young People's Participation in Decision-Making.³⁴ This participation framework supports departments, agencies and organisations to improve their practice in listening to children and young people and giving them a voice in decision-making.³⁵ It also includes an appendix of good practice examples, from stories of parents supporting their toddler's ideas to improve a creche, to young people's involvement in improving the experience of living in a special care unit. Applied to Moldova, this framework has so much potential to reform attitudes toward children's agency and for the active facilitation of CHRDs.

Usually, children's participation is generally pursued on the basis that it will support them to become citizens; rather than recognising them as citizens in the present.³⁶ The same can be said for CHRDs, areas such as education often teach about their rights as human rights defenders *to be* rather than current human rights defenders. The Implementation Guide outlines, 'children should not just learn what rights they have, but also how to claim them and defend their own rights and the rights of others'.³⁷ Section 31 of the Model Law refers to the obligation to promote and facilitate human rights education. Currently, the curriculum in the Moldovan education system places HRE (Human Rights Education) as an optional subject at schools. Statistics from incorporating this subject into the curriculum indicate that HRE is key to child participation. According to Amnesty International, more than one in ten schools offer HRE as an elective subject and every year more than 2,000 students attend the course, participating in one hour of HRE classes per week. More than 100 students attending the course became AI Moldova members, forming school groups, and participating in wider Amnesty International activities, and campaigns, as well as promoting Human Rights in their school and their community.³⁸ While certain aspects of civic education as an obligatory subject can merge the major elements of HRE in the Moldovan curriculum, the statistics demonstrate

³⁴ Department of Children, Equality, Disability, Integration and Youth, *Framework for Children and Young People's Participation in Decision-making*, (2021).

³⁵ Government of Ireland, 'Minister O'Gorman launches the National Framework for Children and Young People's Participation in Decision-Making' (www.gov.ie 2021) <<https://www.gov.ie/en/press-release/06361-minister-ogorman-launches-the-national-framework-for-children-and-young-peoples-participation-in-decision-making/>> accessed 10 April 2023.

³⁶ Christine Stephen, *Nurturing Citizenship in the Early Years*, Centre for Child Wellbeing and Protection, (University of Stirling 2017), 16.

³⁷ Lundy (n 4) 36.

³⁸ Amnesty International, 'Moldova: Implementing Human Rights Education into national curricula' (www.amnesty.org 2019) <<https://www.amnesty.org/en/latest/education/2019/06/moldova-national-human-rights-curricula/>> accessed 10 April 2023.

that access to HRE as a standalone subject results in more participation outside the educational sphere. Moreover, this initiative in Moldova can perhaps be taken further.

Another example can be seen in Scotland where between March 2018 and June 2019, a Children's Parliament conducted workshops in different schools exploring children's views on rights they wanted to defend and the nature of support they required from adults to ensure children can be both empowered and protected in their role as human rights defenders.³⁹ Utilizing the toolkits developed during this initiative may not only spread awareness of CHRDs and educate on human rights but also aid the development of this new CHRD section. Perhaps this can be set up in collaboration with existing Moldovan Youth Councils.

2.2.2. Moldovan Youth Councils and CHRDs

One effective way of extending CHRD's agency beyond educational and familial settings is through youth councils/student councils. A 2022 UNICEF situational analysis of children and adolescents in Moldova identified that:

Almost one-quarter of the respondents don't know much about what the Student Council is doing (22%) and 11% reported that there was no such body established in their school (17% did not know if a Student Council exists in their school or not). The awareness about Local Youth Councils is even lower, as 32% of the respondents did not know if there is one in their community. Among those who reported the existence of a Local Youth Council (48% of all respondents), 26% said that they were satisfied with its functioning.⁴⁰

While youth councils/student councils exist in Moldova, the statistics indicate that they are not receiving the attention and publicity they need to effectively carry out their work and reach their potential. However, the new section for CHRDs has the opportunity to empower youth councils and other child-led organisations. This may look like a provision for active collaboration directly with different child-led organisations from different communities and backgrounds. For example, Moldova has a nationally recognised Youth Council of Moldova (CNTM). Through collaboration by various actors, this has been a major ally in ensuring that the voices of Moldovan youth are heard by decision-makers in pursuit of better policies in future.

³⁹ Children's Parliament, 'Children as Human Rights Defenders' (www.childrensparliament.org.uk 2019) <<https://www.childrensparliament.org.uk/our-work/children-human-rights-defenders/>> accessed 11 April 2023.

⁴⁰ Veronica Sandu and others, 'Situation Analysis of Children and Adolescents in Moldova', (UNICEF Country Office Moldova 2022), 65.

The new law should also propose the requirement of access to a platform (perhaps on the main Moldovan Youth Council website) allocated to different youth councils for them to bring forth their causes/concerns. There should also be periodic national reviews ensuring youth councils and other relevant organisations are being facilitated and collaborated with appropriately by the state.

2.3. Lack of Accessibility to Rights for CHRDs

When understanding how each right within the Model Law can be interpreted for CHRDs, accessibility for children to their rights emerges as a common issue for different procedures and mechanisms to adequately facilitate child participation. Challenges when children are in pursuit of their rights may relate to education, the internet, discrimination, and more generally, access to justice. Many provisions of the Model Law pertain to accessibility,⁴¹ including online rights and discrimination prevention. However, there is a general lack of context for child-friendly accessibility to their rights. Children's more vulnerable status creates real difficulties for them in pursuing remedies for breaches of their rights. This has further implications for children or specific groups of children in relation to discrimination.⁴² Each right within the model law must be accessible for all CHRDs which means each right of HRDs can be easily attained by a child and interpreted from the perspective of a child.

Section 4.5 of the Implementation Guide, provides that 'All institutions and organizations, national or international, should acknowledge and address the particular needs of CHRDs and enable children to access justice promptly'.⁴³ This is vital in addressing the structural gaps regarding children's perspectives and how children as human rights defenders can access each right or even access help in the case of any violations.

One of the ways to address issues for CHRDs accessing their rights is by inserting the need for child-friendly accessibility within Section 23 of the Model Law (See Annex 1). It outlines the obligation to facilitate the activities and work of human rights defenders. Here, within Part II of Section 23, presents the opportunity to add a new subsection (f), an obligation to ensure there are child-appropriate procedures to facilitate the activities and work of CHRDs. This emphasizes the specific attention needed by CHRDs when it comes to their particular accessibility requirements as children as well as further requirements beyond their age alone.

⁴¹ Such as sections 5, 6, 9, and 24 of Model Law. (See Annex 1)

⁴² Ton Liefwaard, 'Access to Justice for Children: Towards a Specific Research and Implementation Agenda' [2019] IJCR 195, 203.

⁴³ Lundy (n 4) 92.

This could also include measures to prevent intersectional discrimination as children with more specific accessibility requirements are often overlooked.

2.3.1. Intersectional Discrimination

The Model Law does not adequately address the intersectional discrimination faced by certain groups of HRDs in general, such as women, persons with disabilities, or those belonging to minority groups. This omission may limit the effectiveness of the law in promoting and protecting the rights of all human rights defenders, including CHRDs.

The Model Law in Section 39 'Non-discriminatory application' which offers a thorough vision of anti-discriminatory protection for HRDs. The new section on CHRDs has the opportunity to take this provision a step further and incorporate the Implementation Guide's acknowledgement of CHRDs' specific vulnerability to discrimination due to their age. 'While similar challenges have been identified for adult HRDs in the same position, children experience multiple and intersecting disadvantages when they act as HRDs, their childhood itself compounding the discrimination they may face for other reasons'.⁴⁴

However, it is still important to seize the opportunity to assess the current faults within the legal framework regarding the contemporary Moldovan context for CHRDs who may face further vulnerability based on, 'sex, race, colour, language, religion, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth, disability, sexual orientation, gender identity, sex characteristics or other status'.⁴⁵

Some national laws that protect children often neglect certain groups of children such as those with disabilities. Even those laws that recognise children with disabilities, still overlook core areas of their needs.⁴⁶ For example, the 2022 UNICEF situational analysis of youth in Moldova demonstrated the major ongoing issue of accessibility for deaf children or those with hearing impairments/learning difficulties. Some of the findings were:

There are severely limited provisions of technology and accessible information and communication formats (e.g. sign language interpretation, Braille, easy-to-read) ... There is no nationally recognized sign language in Moldova and there are

⁴⁴ Lundy (n 4) 12.

⁴⁵ (n 3) 39.

⁴⁶ Mill Neck International, 'Human Rights Instruments for Children with Disabilities, and Other Resources' (MillNeckInternational.org 2016) <<https://millneckinternational.org/resources/international-human-rights-laws-deaf-children>> accessed 19/03/23.

only nine sign language interpreters registered in the whole country (Special Rapporteur, 2016).⁴⁷

Overall, a new section for CHRDs would present a major opportunity to empower CHRDs with disabilities. It has the chance to counter this issue by offering specificities for the equalisation of opportunities regarding deaf children as CHRDs. This could look like including examples within the commentary section of initiatives proven to be efficient in building the confidence of CHRDs with disabilities. The Jamaican Association for the Deaf have established initiatives such as the Justice Training Institute⁴⁸ and Jamaican Sign Language course⁴⁹ which have successfully combatted challenges faced by deaf children. Recently, one of the training courses was conducted to teach and sensitize officials in the justice system about deaf culture and basic sign language skills to bridge the communication gap.⁵⁰ This initiative can be replicated in the Moldovan context to further strengthen accessibility for CHRDs within the comprehensive HRD law. Thus, the new law should emphasize the need for these initiatives relating to accessibility to rights as CHRDs and be sensitive to the communication challenges of children with disabilities as human rights defenders.

2.3.2. *CHRDs Online*

Social media and the online world more generally have a major influence on children today. Considering its role as a tool in empowering CHRDs is essential when it comes to building the new section in the Moldovan law. In 2021, CRC put forward a General Comment on children's rights in relation to the digital environment 'in the light of the opportunities, risks and challenges in promoting, respecting, protecting and fulfilling all children's rights in the digital environment'.⁵¹ While the Model Law refers to the online realm repeatedly,⁵² it is typically focused on protection and accessibility to information for human rights defenders rather than ways it can empower them, especially CHRDs. The UN Special Rapporteur on the rights of persons with disabilities; Ms Catalina D Aguillar during her speech at the 2018 Day of General Discussion reflected on her discussion with a Moldovan 12-year-old named Magdalena who

⁴⁷ (n 40) 12.

⁴⁸ Justice Training Institute, 'Programmes and Courses' (jti.edu.jm 2014) <<https://jti.edu.jm/programmes-and-courses>> accessed 17 April 2023.

⁴⁹ *ibid.*

⁵⁰ Iris Soutar, 'The CRC And Deaf Children' (jamdeaf.org 2015) <<https://jamdeaf.org.jm/articles/the-crc-and-deaf-children>> accessed 19th March 23.

⁵¹ CRC, 'General comment No. 25 (2021) on children's rights in relation to the digital environment' (www.ohchr.org 2021) <<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>> accessed 14 May 2023.

⁵² Sections 6, 14, 16, 24, and 27 of Model Law. (See Annex 1)

explained how children with disabilities in Moldova benefit from inclusive education. The Special Rapporteur emphasised that for CHRDs with disabilities, the online space is a great way to promote and fight for their rights.⁵³

Topics surrounding online accessibility, such as the right to the internet, are a rapidly evolving area of discussion regarding human rights matters, particularly in light of the recent covid-19 pandemic. Moldovan statistics have shown that 35.3 percent of children spend 1-2 hours online, while 28.6 percent spend from 3 to 4 hours. They found that the older the children are, the longer their duration of internet usage.⁵⁴

The Implementation Guide can be used to outline how the online realm presents opportunities to empower CHRDs such as by focusing on how the media plays a role in ensuring CHRDs' civil and political rights.⁵⁵ This must be reflected within a new separate section for CHRDs. The new section could also take this a step further and require accessible, child-friendly initiatives for the empowerment of Moldovan CHRDs online. This could comprise an expansion of online toolkits, online instruments for reaching aid in the case of violation of their rights or even encouraging CHRDs' online activism itself. An example of this is UNICEF's cultivation of a webpage on digital activism that includes online workshops on digital skills for online activism and digital citizenship.⁵⁶ Furthermore, online safety and digital activism could be incorporated into Moldova's HRE curriculum as children become more accustomed to using their voices online. Other examples include CRCnct's own webpage on CHRDs⁵⁷ and the 2021 Council of Europe's online platform for children.⁵⁸

2.4. Insufficient Provisions for International Cooperation

The lack of international cooperation is an issue that is potentially detrimental to the success of any phenomenon that requires coordination and collaboration on a global level.⁵⁹ Although the Model Law in Sections 8 and 9 (see Annex 1), provides the right to communicate with NGOs and intergovernmental organisations and the right to access, communicate with and

⁵³ Ms. Catalina Devandas Aguillar, United Nations Committee on the Rights of the Child, Day of General Discussion, Protecting and Empowering Children as Human Rights Defenders, (Child Rights Connect 2018), 14.

⁵⁴ Arina Cretu, 'A Study on Children's Safety Online in the Republic of Moldova' (childhub.org 2013) <<https://childhub.org/en/child-protection-online-library/study-childrens-safety-online> %20spend%201,from%203%20to%204%20hours.&text=Approximately%2012%25%20of%20children%20spend%20more%20than%207%20hours%20online.> accessed 20th March 2023.

⁵⁵ i.e. The media, and media regulators, should develop policies and guidelines, in consultation with CHRDs, that protect children's civil and political rights online and offline.

⁵⁶ UNICEF, 'Digital Activism for Every Child, A Voice' (www.unicef.ie 2023) <<https://www.unicef.ie/our-work/schools/global-issues/digital-activism/#activity1>> accessed 9th April 2023.

⁵⁷ (n 1).

⁵⁸ Council of Europe, 'Să înceapă distracția' (zuper.md 2021) <<https://zuper.md/>> accessed 14 May 2023.

⁵⁹ Dia Snidal and Micheal Sampson. 'International Cooperation Theory and International Institutions' *Oxford Research Encyclopaedia of International Studies*. (Oxford University Press 20 November 2017).

cooperate with international and regional human rights bodies respectively.⁶⁰ The same applies to CHRDs and HRDs generally in the sense that the Model Law does not sufficiently elaborate on the theme of international cooperation which includes mechanisms for sharing information, resources or best practices. In adapting these provisions for Moldova, the Model Law could benefit from more explicit provisions on international cooperation to protect and promote the rights of CHRDs.

Partnerships and collaboration are central to actualizing CHRD's rights and the Implementation Guide already provides more specific recommendations which if neglected, may impede the ability of states to effectively protect all HRDs. It may also hinder the development of coordinated responses to human rights violations as well as limit the ability of states to effectively address human rights violations against CHRDs, particularly in cases where perpetrators are outside the jurisdiction of the state or where international assistance is needed to provide protection to CHRDs

The Guide provides more specific recommendations in this regard. It recommends that states should cooperate with other states and international organizations to investigate and prosecute perpetrators of human rights violations against CHRDs. For example, Moldovan CHRDs may face persecution and threats from perpetrators outside the country, which can limit the ability of the state to protect them. To address this issue, Moldova could look to initiatives such as Shelter City, which provide temporary relocation and training to human rights defenders at risk.⁶¹ By partnering with participating municipalities, civil society organizations, and government agencies, Moldova could offer housing, training, and networking opportunities to human rights defenders from other countries, with little or no concerns about facilitating the relocation of Moldovan CHRDs to other countries if necessary.

Through this initiative, Moldova could not only provide support and protection to CHRDs facing persecution and threats, but also build international networks of human rights defenders and facilitate the sharing of information, resources, and best practices. This would enable Moldovan CHRDs to collaborate with other CHRDs from around the world, advocate for issues of concern, and work together towards promoting human rights. The Implementation Guide also recommends that states should create international networks of human rights defenders and support their participation in international meetings, seminars, and training sessions. This would enable CHRDs to share experiences, build alliances, and learn from each other, as well as gain exposure to international best practices and standards. For instance, the Implementation Guide could provide guidance on how Moldovan CHRDs could collaborate

⁶⁰ (n 3).

⁶¹ Justice & Peace Netherlands, 'Shelter City' (justiceandpeace.nl 2012)
<<https://justiceandpeace.nl/en/initiatives/shelter-city/>> accessed 12 April 2023.

with other CHRDs in the region or globally to advocate for issues of their concern and work together towards promoting human rights in future (see Annex 3).

3. Conclusion

This memorandum has considered Moldova as a case study for creating a specific section that makes provisions for CHRDs within the comprehensive HRD Model Law that the Ombudsperson of Moldova is using to propose and draft new legislation on HRDs. Noting that although Moldova's legal and policy frameworks are laced with the potential to support active recognition and implementation of CHRD rights, presently, no specific legislation pertaining to CHRDs has been enacted. Hence the engagement of the country's ombudsperson for such a law. The Implementation Guide developed by CRCnct has offered valuable insights and recommendations that significantly integrate the viewpoint of CHRDs. The memorandum agrees that the recommendations of the Implementation Guide can help to improve awareness and support for the needs of CHRDs and advocate for legislative and policy changes that reflect these needs. It has also made suggestions for how these recommendations can be taken further such as by reassessing the definition of CHRDs or placing more emphasis on children's interpersonal relationships to promote child participation as CHRDs, as well as ensuring accessibility and international cooperation for achieving CHRD rights (see Annex 2).

Overall, the memorandum has demonstrated how a potential section on CHRDs presents a unique opportunity whereby engaging with policymakers, CSOs, and other stakeholders can play a major role in placing the protection of CHRDs on an equal footing with their empowerment. Also, that Moldova can establish a legal framework that is fully inclusive of a child rights approach and better aligns with international human rights standards.

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Annex No. 1: Areas for Mainstreaming

The following sections may be relevant for mainstreaming children's and CHRD rights:

- **Part I. General Provisions:** This section lays out the purposes of the law and defines a human rights defender. It is important to ensure that these definitions and purposes are inclusive of children and CHRDs.
- **Part II. Rights of Human Rights Defenders and Responsibility to Defend Human Rights:** This section outlines the specific rights of human rights defenders, including the right to promote and protect human rights and fundamental freedoms, the right to form groups and associations, and the right to seek and disseminate information. It is important to ensure that these rights apply to children and CHRDs.
- **Section 10. Right to participate in public affairs:** This section may be particularly relevant for mainstreaming children's rights, as it highlights the right to participate in public affairs, including in decision-making processes.
- **Section 18. Right to effective remedy and full reparation:** This section is important to ensure that children and CHRDs have access to effective remedies and reparation in cases where their rights have been violated.
- **Part III. Obligations of Public Authorities:** This section outlines the obligations of public authorities to respect, protect, and fulfil the rights of human rights defenders, and to provide free access to materials relating to human rights and fundamental freedoms. It is important to ensure that these obligations are applicable to children and CHRDs.
- **Part IV. Mechanism for the Protection of Human Rights Defenders:** This section establishes a mechanism for the protection of human rights defenders, which could be relevant for mainstreaming children's and CHRD rights if it includes specific measures to protect and support these groups.

While these sections may be relevant, the entire Model Law should be considered and interpreted in a way that is inclusive of children and CHRDs.

PART I. GENERAL PROVISIONS

- **Section 1 Purposes:** The purpose of the law could explicitly include the protection and promotion of children's and CHRD rights.

PART II. RIGHTS OF HUMAN RIGHTS DEFENDERS AND RESPONSIBILITY TO DEFEND HUMAN RIGHTS

- **Section 3 Right to promote and protect human rights and fundamental freedoms:** This section could explicitly mention the promotion and protection of children's and CHRD rights as a fundamental freedom that defenders have the right to promote and protect.
- **Section 4 Right to form groups, associations and organisations:** This section could explicitly include the formation of groups, associations, and organizations that work to promote and protect children's and CHRD rights.
- **Section 5 Right to solicit, receive and utilise resources:** This section could explicitly allow for the solicitation, receipt, and utilization of resources for the promotion and protection of children's and CHRD rights.
- **Section 6 Right to seek, receive and disseminate information:** This section could explicitly include the seeking, receiving, and dissemination of information related to children's and CHRD rights.
- **Section 9 Right to access, communicate with and cooperate with international and regional human rights bodies and mechanisms:** This section could explicitly allow for access to and cooperation with international and regional bodies and mechanisms related to children's and CHRD rights.

PART III. OBLIGATIONS OF PUBLIC AUTHORITIES

- **Section 22 Obligation to respect, promote, protect and fulfil the rights of human rights defenders:** This section could explicitly include the respect, promotion, protection, and fulfilment of the rights of defenders working to promote and protect children's and CHRD rights.
- **Section 23 Obligation to facilitate the activities and work of human rights defenders:** This section could explicitly mention the facilitation of the activities and work of defenders working to promote and protect children's and CHRD rights.
- **Section 28 Obligation to conduct investigation:** This section could explicitly require the investigation of violations of children's and CHRD rights.

PART IV. MECHANISM FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- **Section 34 Establishment of Mechanism for the Protection of Human Rights**

Defenders: The Mechanism could include specific provisions for the protection of defenders working to promote and protect children's and CHRD rights.

In the context of Moldova, mainstreaming the rights CHRDs into the implementation of the Model Law by the government could be better achieved through the following means

1. Awareness-raising and training: The Moldovan government could undertake awareness-raising and training activities for government officials, civil society organizations, and the public on the importance of protecting and promoting the rights of children and CHRD. This could include training on international human rights standards, the Model Law itself, and the specific rights and needs of children and CHRD.
2. Resource allocation: The government of Moldova could allocate resources to ensure that the rights of children and CHRD are protected and promoted in the implementation of the Model Law. This could include financial resources, human resources, and technical resources.
3. Consultation with children and CHRD: The government of Moldova could ensure that children and CHRD are consulted and their voices are heard in the implementation of the Model Law. This could include consultation with child-led organizations, CHRD organizations, and other relevant stakeholders.
4. Monitoring and evaluation: The Moldovan government could establish a monitoring and evaluation mechanism to ensure that the implementation of the Model Law is effectively protecting and promoting the rights of children and CHRD. This could involve setting up an independent monitoring body, engaging civil society organizations and human rights defenders in monitoring efforts, and conducting periodic evaluations to assess progress and identify areas for improvement.
5. Legislation and policy reform: The government of Moldova could undertake legislative and policy reforms to ensure that the rights of children and CHRD are mainstreamed across all areas of government policy and practice. This could involve revising existing laws and policies to ensure they are in line with international human rights standards, as well as introducing new laws and policies to specifically protect the rights of children and CHRD.

Overall, mainstreaming the rights of children and CHRDs into the implementation of the Model Law in Moldova would require a comprehensive approach that involves various actors and strategies. It would require a long-term commitment from the government and civil society organizations to ensure that the rights of these groups are fully protected and promoted in all areas of government policy and practice.

Annex No. 2: Summary of Recommendations

Based on the analysis of the Model Law from a lens of CHRDs, the following are highlights of recommendations for consideration in the CHRD-specific section to be created to ensure that the new law is fully inclusive of a child rights approach:

1. The comprehensive HRD law should include the **definition of CHRD** within the section of the definition for HRD to mainstream the term CHRD as well as ensure that they are not treated as a separate category of human rights defenders but rather fully integrated into the broader framework of human rights protection.
2. Inserting **other terms for children**, such as youth, adolescents, and young persons to associate with as ages as possible to encourage participation We suggest utilizing the comment box under the definition section to address 'child' as an umbrella term for the many ages and levels of maturity when it comes to acting as a CHRD.
3. Further emphasize **the role of interpersonal relationships** for CHRDs to encourage their participation. The new section on CHRD should reflect the Implementation Guide's notes on Parents/Guardians and Education, as well as further explore how these aspects nurture children's agency.
4. Mainstreaming the Implementation Guide's **education** rights regarding CHRDs within Section 31 of the Model Law as it offers guidance not only regarding CHRDs but the education of human rights for citizens in general.
5. The new section on CHRDs should refer to the **Moldovan Youth Councils** and other relevant organisations as significant platforms for empowering CHRDs and making their presence more generally known within Moldovan society.
6. The Implementation Guide's Section 4 on child-friendly justice should be integrated throughout the Model Law, particularly when it comes to addressing **accessibility** to rights within a CHRD's context.

Annex No. 3: Recommendations for Future Research

- Further research on the implementation of the Model Law in Moldova, including an analysis of its strengths and weaknesses, challenges faced during implementation, and best practices that can be shared with other countries.
- Analysis of the effectiveness of existing mechanisms for protecting CHRDs, such as the UN Special Rapporteur on the Situation of Human Rights Defenders and the EU Human Rights Defenders Mechanism, in addressing the challenges faced by CHRDs and promoting their rights.
- Examination of the role of social media and other digital platforms in promoting the work of CHRDs and increasing their visibility, as well as the challenges and risks associated with the use of these platforms.
- Comparative analysis: Conduct a comparative analysis of the implementation of the Model Law in different countries to identify best practices and areas for improvement. This could include examining the effectiveness of specific provisions, the role of civil society organizations in the implementation process, and the impact of international cooperation on promoting and protecting the rights of CHRDs.
- Impact assessment: Conduct an impact assessment of the implementation of the Model Law to determine its effectiveness in promoting and protecting the rights of CHRDs. This could involve analysing the impact of the law on the ground, assessing changes in the legal and policy environment, and identifying areas for improvement.