Submission to the Seanad Public Consultations Committee on the UN International Covenant on Civil and Political Rights

March 2014
The Children’s Rights Alliance unites over 100 organisations working together to make Ireland one of the best places in the world to be a child. We improve the lives of all children and young people by ensuring Ireland’s laws, policies and services comply with the standards set out in the United Nations Convention on the Rights of the Child.

Alcohol Action Ireland
Amnesty International Ireland
Ana Liffey Drug Project
Arc Adoption
The Ark, A Cultural Centre for Children
Assoc. for Criminal Justice Research and Development (ACJRD)
Association of Secondary Teachers Ireland (ASTI)
ATD Fourth World – Ireland Ltd
Barnardos
Barretstown Camp
BeLonG To Youth Services
Bessborough Centre
Border Counties Childhood Network
CARI Foundation
Carr’s Child and Family Services
Catholic Guides of Ireland
Catholic Youth Care
Childhood Development Initiative
City of Dublin YMCA
COPE Galway
Crosscare
DIT – School of Social Sciences & Legal Studies
Doras Luimni
Down Syndrome Ireland
Dublin Rape Crisis Centre
Dun Laoghaire Refugee Project
Early Childhood Ireland
Educate Together
School of Education UCD
EPIC
Focus Ireland
Forbairt Naíonraí Teoranta
Foróige
GLEN - Gay and Lesbian Equality Network
Headstrong - The National Centre for Youth Mental Health
Immigrant Council of Ireland
Inclusion Ireland
Inspire Ireland
Institute of Community Health Nursing
Integration Centre
International Adoption Association
Irish Association of Social Care Workers (IASCW)
Irish Association of Social Workers
Irish Association of Suicidology
Irish Autism Action
Irish Centre for Human Rights, NUI Galway
Irish Congress of Trade Unions (ICTU)
Irish Council for Civil Liberties (ICCL)
Irish Foster Care Association
Irish Girl Guides
Irish National Teachers Organisation (INTO)
Irish Penal Reform Trust
Irish Premature Babies
Irish Refugee Council
Irish Second Level Students’ Union (ISSU)
Irish Society for the Prevention of Cruelty to Children
Irish Traveller Movement
Irish Youth Foundation (IYF)
Jack & Jill Children’s Foundation
Jesuit Centre for Faith and Justice
Junglebox Childcare Centre F.D.Y.S.
Kids’ Own Publishing Partnership
Lifestart National Office
Marriage Equality – Civil Marriage for Gay and Lesbian People
Mary Immaculate College
Mental Health Reform
Mothers’ Union of Ireland
Mounttown Neighbourhood Youth and Family Project
MyMind
National Association for Parent Support
National Organisation for the Treatment of Abusers (NOTA)
National Parents Council Post Primary
National Parents Council Primary
National Youth Council of Ireland
One Family
One in Four
OPEN
Parentline
Parentstop
Pavee Point
Peter McVerry Trust
Rape Crisis Network Ireland (RCNI)
Realt Beag
SAFE Ireland
Saoirse Housing Association
SAOL Beag Children’s Centre
Scouting Ireland
Society of St. Vincent de Paul
Sonas Housing Association
SpunOut.ie
St. Nicholas Montessori College
St. Nicholas Montessori Society
St. Patrick’s Mental Health Services
Start Strong
Step by Step Child & Family Project
Sugradh
The UNESCO Child and Family Research Centre, NUI Galway
Treoir
UNICEF Ireland
Unmarried and Separated Families of Ireland
Yooboyo
youngballymun
Youth Advocate Programme Ireland (YAP)
Youth Work Ireland

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1. Introduction

The Children’s Rights Alliance unites over 100 organisations working together to make Ireland one of the best places in the world to be a child. We improve the lives of all children and young people by ensuring Ireland’s laws, policies and services comply with the standards set out in the United Nations Convention on the Rights of the Child.1

The Children’s Rights Alliance welcomes the opportunity to submit to the Seanad Public Consultations Committee on Ireland’s compliance with the UN International Covenant on Civil and Political Rights (ICCPR). Our submission is confined to issues affecting children. The ICCPR is one of the core international human rights treaties to which Ireland is a party. It dedicates an entire article (Article 24) to the rights of children though a number of other articles are directly relevant to children. These include the right to be free from torture, cruel, inhuman and degrading treatment or punishment (Article 7) in relation to corporal punishment, and the right to freedom from slavery (Article 8) in relation to child victims of human trafficking.

In advance of its upcoming review of Ireland’s implementation of the ICCPR, the UN Human Rights Committee (hereafter referred to as ‘the Committee’) has published a List of Issues which will guide the review. While several issues relating to children arise, there are five key issues:

- Full implementation of the Ryan Report Implementation Plan2
- Corporal punishment within the family and in care settings
- Child trafficking and the abduction of children
- Non-denominational schooling
- Children and young people in detention.

2. Key issues relating to children under the ICCPR

2.1. Full implementation of the Ryan Report Implementation Plan under Articles 7 & 24

In its List of Issues, the Committee has requested information3 from the State relating to a follow-on mechanism for the Monitoring Group of the Ryan Report Implementation Plan. The fourth and final progress report of the Implementation Plan has yet to be published by the Department of Children and Youth Affairs. It was due before the end of 2013. The Children’s Rights Alliance is an independent member of the Monitoring Group and we believe that the report should be published as soon as possible. It is vital that clear steps should be outlined to provide for any outstanding commitments to be addressed and that the learning from the Monitoring Group is mainstreamed into the work of the Department of Children and Youth Affairs and the new Child and Family Agency.

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2 Office of the Minister for Children and Youth Affairs (2009), Report of the Commission to Inquire into Child Abuse, Implementation Plan – known also as the ‘Ryan Report’. It revealed wrongdoings against children living in institutions in Ireland during the period 1936-2000 and produced 99 actions to be implemented to address the situation.
3 UN Human Rights Committee, List of Issues in relation to the fourth periodic report of Ireland, 22 November 2013, CCPR/C/IRL/Q/4
2.2 Corporal punishment within the family and care settings under Articles 7 & 24

Corporal punishment by parents and other family members is not prohibited by law in Ireland. The Children’s Rights Alliance urges the State to introduce legislation without delay to remove the common law defence of ‘reasonable chastisement’ within the family and in care settings, while also strengthening positive parenting support systems. Corporal punishment is a form of violence and ill-treatment from which all children have a right to be protected and its use should be prohibited in all settings.

Other national and international voices have called on Ireland to reform its law on corporal punishment. In its 2006 Concluding Observations on Ireland, the UN Committee on the Rights of the Child recommended a legislative ban on corporal punishment within the family. During the UN Universal Periodic Review (UPR) process in 2011, the Irish Government partially accepted a recommendation put forward to prohibit corporal punishment by stating that the matter is under continuous review but that such a change would require very careful consideration. The former Council of Europe Commissioner for Human Rights, Thomas Hammarberg, following a visit to Ireland in 2011, called on the State to “unconditionally ban corporal punishment”. In 2011, the banning of physical punishment of children was also recommended in the Fifth Report of the Rapporteur on Child Protection.

In 2010, the Office of the Minister for Children and Youth Affairs published a study Parenting Styles and Discipline: Parent’s and Children’s Perspectives in 2010 and the Department has indicated that the issue is currently under review.

The Alliance is firmly against the physical punishment of children by parents and others. It is a form of violence which contravenes Article 7. The Alliance believes that the Government must provide leadership in this area through the resourcing of family support and parent education programmes aimed specifically at discouraging parents from slapping children and providing them with alternative ways of disciplining them.

2.3 Child trafficking and the abduction of children under Article 8

Much work has been done in this area over the past number of years but there are some key outstanding issues to be addressed. There is a need for a child-centred approach to victims of trafficking with the principle of the best interests of the child at the heart of all policy in the area. Key legislative provisions such as the identification of adults accompanying children and temporary residency should be included in the forthcoming Immigration, Residence and Protection Bill and temporary residency should automatically be provided in law to all trafficked children on humanitarian grounds. There is a need for standardised, clear statistical data on referrals of trafficked children to Child and Family Agency and outcomes for those children as well as inter-agency cooperation in recording relevant data on a centralised database. Conviction rates under the Criminal Law (Human Trafficking) Act 2008 remains low over the six years since its enactment. It is hoped that the new Criminal Law (Human Trafficking)(Amendment) Act 2013 will address definitional difficulties, in particular in relation to forced labour.

4 The UN Committee on the Rights of the Child is a similar body to the UN Human Rights Committee and it monitors states implementation of the UN Convention on the Rights of the Child and issues Concluding Observations and Recommendations after its review.

5 Dáil Debates on Criminal Law (Human Trafficking) (Amendment) Bill 2013 [Seanad]: Second Stage, 28 June 2013,

Protecting and empowering children by ratifying this Optional Protocol to the UN Convention on the Rights of the Child is a vital step towards creating global respect for children’s rights. The Optional Protocol has been ratified by 163 countries around the world and Ireland is the only European Union state yet to do so. We understand that Ireland intends to ratify the Protocol once legislation in relation to victims has been finalised and we urge the State to progress the necessary legislation without delay.

2.4 Patronage and pluralism in primary education under Article 18 & 24

The Minister for Education and Skills, Mr. Ruairi Quinn, T.D., has lead excellent work on the divestment of the patronage of primary schools but a new push is required to capitalise on momentum and to ensure the planned and agreed transfer of patronage becomes a reality – the process is due to begin with the opening of four schools under the aegis of Educate Together in September 2014.  

The White Paper on Patronage and Pluralism in Primary Education due this year should be published without delay. Government should also prioritise the completion of the programme on Education about Religion and Beliefs (ERB) and Ethics to ensure that children can access education in a manner that reflects their cultural, ethnic, linguistic and religious beliefs. In addition, while the developments on divestment are most welcome, the discussion should now be expanded to include post primary level schools.

2.5 Children and young people in detention under Article 10

Until recently and in contravention of Article 10 of the ICCPR, 16 and 17 year old boys were held with adults at the much-criticised St. Patrick’s Institution. In October 2013, construction began at the site of the Oberstown redevelopment project for the new National Children Detention Facility. In May 2012, all 16 year olds were transferred to the children detention facilities in Oberstown. Since December 2013, all 17 year olds serving custodial sentences, previously being held at St. Patrick’s Institution, have been transferred to Wheatfield prison with the exception of a small number of those on remand. The transfer to another adult prison must be a temporary and short-term measure – adult prisons are not suitable accommodation for detention of young people.

Appropriate temporary measures for 17 year old males on remand must be put in place to allow them to be removed from St. Patrick’s Institution during this transitional phase. This will allow the State to remove its reservation to Article 10 (2) (b) ICCPR on the separation of children on remand from adults in prison.

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6 Department of Education and Skills Press Release: Minister Quinn announces new multi-denominational schools to open following patronage divesting surveys, 12 March 2014
8 Department of Children and Youth Affairs, Oberstown construction demonstrates Government commitment to implementing long-awaited reforms – Fitzgerald, 14 October 2013
9 Irish Penal Reform Trust, ‘Ombudsman for Children’s complaints remit extended to children in St Patrick’s Institution’ [press release], 25 June 2012
10 A reservation to a covenant or treaty is a statement made by a State usually on signing or ratifying a treaty under which the State excludes itself from the obligations of certain provisions of the treaty in its application to that State. See Article 2 (1) (d) of the Vienna Convention on the Laws of Treaties 1969. Under the ICCPR, Ireland made a reservation in
In contravention of Article 10 (2(a), young people on remand who have not been convicted have been held alongside those who have been found guilty in St. Patrick’s Institution. Under the Children Act 2001, s. 88(8) ‘where practicable’, accused young people are to be held separately from those convicted. We believe that beyond circumstances where this is deemed to be ‘practicable’, young people who have not been found guilty of an offence should never be held with those who have.

3. Human Rights Education

From September 2014, in the new Junior Cycle curriculum, the subjects of Social and Personal Health Education (SPHE) and Civic, Social and Political Education (CSPE) will be no longer be a compulsory subject and a short course will be available for schools on an optional basis instead. As a result at post primary level, human rights education will no longer be a compulsory element of the curriculum, neither will it be examinable. This means that some children may never receive any human rights education during their time in post primary education. Knowing and understanding our rights as individuals is at the heart of life in a democratic society and every child and young person should have the opportunity to learn about their rights as a core part of their education.