Special Edition: Children’s Referendum
Why vote yes?

Yes for Children Campaign Bus

AUTUMN 2012
Foreword

Welcome to this special edition of our quarterly newsletter, where we focus on the Children’s Referendum. This edition takes time to mark this exciting period in Irish history.

On Saturday 10 November 2012, we will finally be presented with a unique opportunity to make a real difference to the lives of children in Ireland, by voting ‘Yes’ in the Children’s Referendum.

The Alliance has campaigned for constitutional reform since our establishment in 1995. The holding of the Children’s Referendum is a significant victory for the Children’s Rights Alliance and its member organisations who have lobbied hard for constitutional change, particularly over the past seven years.

While the amendment is not as strong as we would have liked, we believe it deserves our full backing. The next pages explain our position and the reasons why we think the people of Ireland should vote ‘Yes’ on Saturday 10 November 2012.

Over the last year, we’ve been working with our members to develop a strong and comprehensive campaign plan to bring home a ‘Yes’ vote.

We have endeavoured to empower members by compiling a campaign toolkit to support their own individual campaigns and provide dedicated media training and taking points for spokespeople. It has been fantastic to see the many exciting ‘Yes’ initiatives developed by our members.

We’ve also been working hard to disseminate information and create opportunities for discussion and debate on the Children’s Referendum. Our legal and policy team have developed a number of valuable resources, including several briefings offering detailed analysis of the proposed amendment and an overview of the positive changes the Children’s Referendum will bring to Ireland.

As well as raising awareness within the media, we’ve spent time promoting the Children’s Referendum beyond our membership by addressing key meetings and events around the country and writing articles for newsletters, including ICTU, SIPTU, and the Irish Countrywomen’s Association. We’ve set up several of our own briefings, including to Oireachtas members, to the early childhood sector and Irish language community. There was also a very well attended legal information seminar in Dublin. In addition, we’ve held face to face meetings with key stakeholders, including faith leaders, community and voluntary organisations, parents’ groups, disability organisations, educational management bodies, and organisations working with Irish language speakers.

We’ve also joined forces with Barnardos, the ISPCC and Campaign for Children to form the Yes for Children campaign and push out a strong ‘Yes’ vote. This referendum is an historic opportunity for the people of Ireland to ensure that this generation, and future generations of children are better protected, respected and heard. This national campaign includes a bus tour encouraging voters in communities throughout Ireland to support the referendum, a national multimedia marketing campaign, as well as an active online presence.

Now, with only a matter of days until polling day, we need to keep up the energy. Polls suggest that a ‘Yes’ vote is in the bag, but we’re fighting complacency. While we are delighted that polling day is on a Saturday, giving many more young people the opportunity to travel home and vote, we are acutely aware that people will be busy getting on with their weekends.

We urge you to talk to your families, friends, neighbours and colleagues and ask them to take the time to vote. Not only do we need a ‘Yes’ vote on Saturday 10 November but we need a loud and resounding ‘Yes’ vote.

As we approach the final hurdle of this referendum campaign, I would like to take this opportunity to thank our Yes for Children partners, including the many unpaid volunteers, who have given their all to pursue a better future for Ireland’s children.

Best wishes,

Tanya Ward
Chief Executive

Are you on board?

The Yes for Children Campaign Bus was launched on Monday 8 October 2012 and has since been travelling around the county, visiting over 40 towns in total. Alliance staff members, together with the ISPCC, and Barnardos, have rolled up their sleeves and been on board in Dublin, Cork, Kerry, Galway and Donegal to name but a few!

The aim of the Campaign Bus is to meet and speak with as many people as possible and encourage the public to get on board and vote ‘Yes’ on Saturday 10 November. To date, it has been a great success, raising awareness, getting people engaged in discussions and generating local and regional media interest in the Children’s Referendum.

For more information about the bus route, please go to the Yes for Children website at: www.yesforchildren.ie/getinvolved/

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1. Yes for Children Campaign Bus Launch, Dundrum Town Centre, Dublin.
2. Vote ‘Yes’ say the children of Ireland
3. Alliance Chairperson, Paul Gligor, getting his hands dirty at the National Ploughing Championships in Co. Wexford.
4. The Alliance’s Emma McKinley and Edel Quinn hard at work on the ‘Yes for Children’ campaign trail.
5. The Alliance’s Carys Thomas and a Yes for Children volunteer meet Fianna Fáil Councillor Máiread Fennell in Kerry.
6. The Alliance’s Oisín O’Reilly showing his support along with the other Yes for Children volunteers.

“Are you on board?”

The aim of the Campaign Bus is to meet and speak with as many people as possible and encourage the public to get on board and vote ‘Yes on Saturday 10 November.”
The thirty-first Amendment to the Constitution (Children) Bill 2012 is absolutely necessary. Acknowledgement of the need for constitutional reform is not new, with it first recognised in 1976 by former President, and then Senator, Mary Robinson. Since then, a series of official reports have advocated constitutional change, from the infamous Kilkenny Incest Report in 1993 to the report of the Joint Committee on the Constitutional Amendment on Children in 2010.

Of course, children do already have limited rights under the present Constitution. But what is lacking, is a sufficiently clear constitutional recognition of the needs of children that are different from, and additional to, those of adults.

This referendum is a chance to bring our laws in line with our values as a society – and how we now view children. The amendment will help the courts and the child protection system work better and make better decisions on behalf of children. The proposed change is not an attack on parents or the family, nor is it a radical shift. This referendum won’t change the rights of parents or the special status of the married family in the Constitution, and safeguards have been added to protect against over-intervention by the State. Indeed, strengthening the rights of children in the Constitution will empower parents to ensure that their child’s rights are upheld by the State.

Saturday 10 November 2012 has the potential to be a game-changer for children’s rights in Ireland. On that day, the people of Ireland will be asked to vote on whether they wish to strengthen the rights of children in the Constitution.

“Strengthening the rights of children in the Constitution will empower parents”

Overwhelmingly, the best place for a child is with their family. But the sad reality is that some families are struggling and need help, while a small minority can be dangerous. Under the current Constitution, the State does not do enough to protect children and support families. A YES vote will help change this.

The Children’s Referendum will also allow us to reform our adoption laws. Presently, it is practically impossible to adopt children in long-term foster care, denying hundreds of children a second chance at family life. Voting YES could potentially allow hundreds of children to finally be adopted by their foster families.

We can’t take away the abuse of the past, and we can’t protect every child from abuse. But we can draw a line in the sand and insist that our Constitution respects, protects and listens to children.

Reasons to Vote Yes

1. For the first time, the Constitution will take a child-centred approach to the protection of all children and will allow the State to better support families that are struggling, rather than wait for a situation to reach crisis point.
2. Allow up to 2,000 children, currently in long-term State care, the opportunity to be adopted and given a second chance at a stable and permanent family.
3. Base child protection, care, adoption, guardianship, custody and access decisions on what is in the best interests of the child.
4. Ensure that judges listen to the views of children when making decisions in child protection, care, adoption, guardianship, custody and access cases.
5. Set out how we, as a country, now view and value children and help foster a culture that actively protects and safeguards children.

Resources on the Children’s Referendum:

- Campaign Toolkit for members
- Short summary explanation of the Referendum wording (2pages)
- Briefing note on the Referendum (5 pages)
- Detailed analysis of the amendment wording, its objectives and likely impact if the Referendum is passed
- Legal and policy overview, providing background information on the amendment

Available at www.childrensrights.ie/resources.
The Children’s Referendum – Article by Article

If passed, the Children’s Referendum will insert a new article into the Constitution. The new article, ‘Children’, will be numbered Article 42A and will sit between Articles 42 and 43.

Article 42A.1 recognises that all children have rights and pledges to protect those rights by law. It allows the courts to identify rights for children on a case-by-case basis. This provision will enable the courts to develop new thinking in relation to children’s rights and to break with past decisions, some of which have resulted in bad outcomes for children.

Article 42A.2 contains two parts. Article 42A.2.1 clarifies how and when the State can step in to protect children. It is an amended version of an existing article in the Constitution (Article 42.5), which it will replace. Importantly, it shifts the trigger of intervention from focusing solely on the parents’ failure to the impact of that failure on the child. It provides a strong constitutional foundation for our child protection system, by providing the State with the power to act when the ‘safety or welfare’ of a child is ‘likely to be prejudicially affected’.

This new wording should encourage the State to intervene earlier when families are struggling, to offer them support and better protect the child. Importantly, it also contains safeguards to protect against over-intervention by the State, by including the phrases “exceptional cases” and “proportionate”. It provides, for the first time, the same threshold of protection to all children, regardless of whether their parents are married or unmarried.

Under the Constitution, the best interests of children of married parents are presumed to be found within the child’s family. This provision could be used to challenge this presumption in cases where the child’s “safety or welfare” is at risk.

Article 42A.2.2 commits the Oireachtas to bring in a law to allow a child the opportunity of being adopted, where the parents have shown a high threshold of failure towards the child. This law must set out the length of time that parents have failed in order for the child to be eligible for adoption. Critically, such adoptions can only take place where it is in the best interests of the child and where all other options have been explored and failed.

This provision could provide hundreds of children among the 2,000 in long-term foster care (defined as over five years), with the opportunity of a second chance of a stable and permanent family life, through adoption. Alongside the amendment wording, the Government published draft legislation to show what will change in the area of adoption, if the referendum is passed. Under this draft legislation, there must have been a continuous failure on the part of the parents towards the child for a period of at least three years. There must also be no reasonable prospect of the parents resuming care of the child, and the child must have been living in the home of their prospective adoptive parents for a minimum continuous period of 18 months. A further requirement is that the child must be in the custody of, and have a home with, those wishing to adopt him or her (i.e. the foster parents) for a continuous period of at least 18 months.

Article 42A.4.2 commits the Oireachtas to legislate to provide that the views of the child are heard and taken into account in the proceedings listed in 41 children in care, child protection, adoption, guardianship, custody and access cases. This will require that the views of the child are heard when key decisions are made about their lives. It does not mean that the child’s views will be the determining factor in the case but depends on the type of case before the court and the judge hearing the case. Such gaps will be addressed by this new wording.

After the Referendum

While the Alliance is hugely optimistic about the potential of the constitutional amendment, we are not naive. The amendment will not, and cannot, solve all ills. Much work remains to be done. If the Children’s Referendum is passed, the Alliance will actively lobby for seven new commitments from Government:

1. Timely introduction of specific legislation to give effect to the constitutional provisions.
2. Introduction of a comprehensive Children’s Bill to address outstanding gaps, including the child’s right to know his or her identity and reform of the law on guardianship.
3. Resources must be provided to support the implementation of the amendment.
4. Provision should be made to support the Judicial Studies Institute to instigate judicial education on the amendment.
5. The judiciary and Oireachtas should rely on the UN Convention on the Rights of the Child in its interpretation of the amendment, in particular when identifying ‘natural and imprescriptible rights’ for children (Article 42A.3).
6. The amendment sets down a legal minimum standard. The judiciary and the Oireachtas should build upon this standard in their interpretation of the amendment. For example, by legislating to respect the best interests and views of the child in a broader range of judicial and administrative decisions.
7. The issue of constitutional protection for the right to equality and non-discrimination should be considered by the Constitutional Convention.
Minister Fitzgerald Calls on Alliance to Get Out a Strong YES Vote

The Minister for Children and Youth Affairs, Frances Fitzgerald TD, delivered an impassioned speech to the Alliance’s membership at a briefing event on 11 October in Dublin’s Chester Beatty Library. She called on members to mobilise a strong ‘YES’ vote in the Children’s Referendum. During the well-attended event, which was picked up by the media, Minister Fitzgerald also reflected on her journey to finally secure a date for the Children’s Referendum. She took time to commend the Alliance and the membership for its work. “This referendum has been called for by legal, political and civic groups, including many members of the Children’s Rights Alliance, since the Kilkenny Incest Case in 1993. This Government has delivered on its promise to children and proposed an amendment, which has drawn support from a broad cross-section of society.”

The Minister encouraged Alliance members to mobilise family and friends, and ensure good voter turnout. “It is now time to throw all our energies into explaining why this referendum will make a real difference to the lives of children. We need to speak to our families, friends, colleagues (and even strangers!) about why they need to vote ‘YES’.”

Alliance Chief Executive, Tanya Ward said: “Alliance members need to rally the troops and get out a strong YES vote. This is our opportunity to loudly declare that children matter. If we fail to win this referendum, progress on children’s rights issues will freeze, and much needed legislation will stagnate. A weak ‘YES’ vote limping over the line will also have serious implications for us, as children’s rights campaigners, who continue to work for a better deal for children – particularly in the run up to the Budget in December. Let’s all work together to bring home a YES vote.”

The Members’ Briefing was also an opportunity for members to discuss the wording in detail.

To download the speeches of Minister Frances Fitzgerald and Chief Executive Tanya Ward from the Members’ Briefing go to: www.childrensrights.ie/resources and click on ‘Audio and Video’

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National Youth Council of Ireland launched a Smartphone App to mobilise voters

On 15 October the NYCI launched its Children’s Referendum app in the Student Centre at UCD, Belfield, as part of an innovative campaign to engage younger voters. The HTML5 app ‘Your Voice, Your Vote’ uses animation and short, sharp messages to guide users through registering to vote, reasons to vote Yes and also encourages them to sign up for reminders about registration and voting dates. Unique in Ireland, this app is an exciting and accessible way to let young people know the Children’s Referendum is happening on Saturday 10 November.

“Alliance members need to rally the troops and get out a strong YES vote. This is our opportunity to loudly declare that children matter. If we fail to win this referendum, progress on children’s rights issues will freeze, and much needed legislation will stagnate.”

Tanya Ward, Chief Executive

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Members’ Activities – Snapshot

Many of our member organisations have been hard at work, producing some fantastic resources to support the Children’s Referendum, including a number of leaflets, posters, articles and even IT applications! Here’s a snapshot:

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UNICEF Ireland’s YouTube animation: It’s About YOU

UNICEF Ireland has produced some great resources on the Children’s Referendum, including workshop toolkits for schools and youth groups to promote opportunities for children and young people to debate and discuss the issues. They have also produced a fantastic animation made with the help of young people for young people, to explain what the referendum is all about.

The web app is available to download on www.nyci.ie

Down Syndrome Ireland’s Easy-to-Read Guide

Down Syndrome Ireland launched its easy-to-read guide to the Children’s Referendum, to encourage their members to use their vote. The guide provides a very brief outline of the proposed amendment to the Constitution, as part of its Voter Education and Political Participation Programme, empowering adults with Down syndrome to make informed choices as members of the electorate.

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Barnardos Infographic: 5 reasons to vote YES for children

Barnardo has developed a number of information tools for its supporters, as part of its active campaign on the Children’s Referendum. As well as a number of videos, featuring the Chief Executive Fergus Finlay and celebrities, Barnardos has developed an infographic, which visually depicts the top 5 reasons to vote Yes on Saturday 10 November 2012.

To find out more, go to: www.barnardos.ie

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Taking the Message to New Audiences

The Alliance has been reaching out to a broad spectrum of individuals and organisations in Ireland, to build support for the Children’s Referendum across the electorate. Briefing events, as well as individual meetings, have been held with a variety of stakeholders, providing an important opportunity for discussion and to mobilise groups to get out and vote.

The Alliance started early, with a journalist briefing on the care system in anticipation of the Children’s Referendum. Other briefing events have been held with groups, including faith leaders, trade unions, legal practitioners, political representatives, community and voluntary organisations, parents’ groups, disability organisations, educational management bodies, and organisations working with Irish language speakers.

The Alliance organised a very well-attended Information Seminar for the legal profession on behalf of the Yes for Children Campaign. (pictured above right).

This work has paid dividends. A wide range of organisations have come out in favour of the proposed amendment, including the Irish Congress of Trade Unions, the Irish National Teachers’ Organisation, the Society of Saint Vincent de Paul and the Irish Countrywomen’s Association. This is a massive achievement. For many, this represents the first time they have publicly taken a position in a referendum, demonstrating the widespread support in this country for constitutional reform to improve the lives of children.

Right: Conducted entirely through the medium of Irish, Clíona Frost of Forbairt Naíonraí Teo; Joe O’Toole, Campaign for Children; Sinead Ni Chulachain, BL; and Pól Ó Murchú, Solicitor spoke live to the nation via a live stream link set up by Alliance staff for the Yes for Children campaign.

For more on the Irish language briefing see www.childrensrights.ie

Alliance Launches Anti-Trafficking Report with UCC and The Body Shop

The Children’s Rights Alliance launched a research report entitled Safe Care for Trafficked Children in Ireland: Developing a Protective Environment in Dublin on 13 September 2012. The Alliance commissioned University College Cork to conduct the research. The Report was funded by The Body Shop, as part of their Stop Sex Trafficking of Children and Young People campaign. The report outlines current practice in Ireland in relation to the provision of safe and appropriate accommodation, care, supports, and legal protection to trafficked children or those children suspected of being trafficked.

It can be downloaded at www.childrensrights.ie

National Children’s Day

This year, the Alliance once again visited the Children’s Day on 28 September. This marked the 20th Anniversary of Ireland ratifying the UN Convention on the Rights of the Child. Tanya read Walking Through The Jungle by Julie Lacome, which was chosen by the children, and she then informed their parents about the importance of the Children’s Referendum.

Ryan Report Monitoring Group

The Alliance has fed into the development of the Third Progress Report on the Ryan Report through its membership of the High Level Monitoring Group. The Alliance subgroup on the Ryan Report was consulted on a confidential draft of the report in early October. The members’ views were then communicated by the Alliance to the High Level Group, chaired by the Minister for Children and Youth Affairs, at a meeting on 15 October. Work is ongoing on this report, which is likely to be published in the coming weeks.

Vote for the Alliance!

The Alliance is part of Better Together 2012, which includes a video competition. Our video is our much loved animation on the UN Convention on the Rights of the Child, which was produced in 1999. The competition is all about why we are “better together”, so please help us out by voting for our video at www.bettertogether.ie/content/un-convention-rights-child to help us win €3,000. You can vote once a day up until 19 November, so please keep voting!

Report Card 2013

Over the next few months, the Alliance staff will be preparing the next edition of our flagship publication, Report Card 2013, which will be launched on Thursday 31 January 2013. Member organisations have again been asked to feed in their knowledge, experience and expertise on the issues in hand. Specifically, the team is looking for examples of failure to progress a particular policy commitment on the ground as well as evidence of either the success or failure of Government to implement its promises to children.

Please contact Rachel Duke, Membership and Sustainability Officer, if you have comments: rachel@childrensrights.ie

Report Card 2012:

“Specifically, the team is looking for examples of failure to progress a particular policy commitment on the ground as well as evidence of either the success or failure of Government…”
The Children’s Rights Alliance is a coalition of over 100 organisations working to secure the rights of children in Ireland, by campaigning for the full implementation of the UN Convention on the Rights of the Child. We aim to improve the lives of all children under 18 years, through securing the necessary changes in Ireland’s laws, policies and services.

Members

Alcohol Action Ireland
Amnesty International Ireland
Ana Liffey Drug Project
Arc Adoption
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 Childcare Network
Catholic Guides of Ireland
Catholic Youth Care
Child and Family Research Centre, NUI Galway
Childminding Ireland
Children in Hospital Ireland
City of Dublin YMCA
COPE Galway
Crosscare Drug and Alcohol Programme
Crosscare Teen Counselling
DIT – School of Social Sciences & Legal Studies
Doras Luiinis
Down Syndrome Ireland
Dublin Rape Crisis Centre
Dun Laoghaire Refugee Project
Early Childhood Ireland
Educate Together
School of Education UCD
Enable Ireland
EPIC (formerly JAYPIC)
Focus Ireland
Forbairt Naionraí Teoranta
Foróige
GLEN – Gay and Lesbian Equality Network
Headstrong – The National Centre for Youth Mental Health
Home-Start National Office Ireland
Immigrant Council of Ireland
Inclusion Ireland
Inspire Ireland
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 Girls Guides
Irish National Teachers Organisation (INTO)
Irish Penal Reform Trust
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)
Jesuit Centre for Faith and Justice
Junglebox Childcare Centre F.D.Y.S.
Kids’ Own Publishing Partnership
Kilbarrack Youth Project
Lifestart National Office
Marriage Equality – Civil Marriage for Gay and Lesbian People
Mary Immaculate College
Matt Talbot Community Trust
Miss Carr’s Children’s Services
Mountown Neighbourhood Youth and Family Project
MyMind
National Association for Parent Support
National Association for the Treatment of Abusers (NOTA)
National Foster Care Association
National Parents Council Primary
National Parents Council Post Primary
National Youth Council of Ireland
One in Four
OPEN
Parentline
Parentstop
Pavee Point
Peter McVerry Trust
Psychological Society of Ireland
Rape Crisis Network Ireland (RCNI)
Saoirse Housing Association
SAOL Beag Children’s Centre
Sevenoaks Early Education Centre
Society of St. Vincent de Paul
Sons Housing Association
Spunout.ie
St. Nicholas Montessori College
St. Nicholas Montessori Society
St. Patrick’s University Hospital
Start Strong
Step by Step Child & Family Project
Surgadh
The Ark, A Cultural Centre for Children
The CARI Foundation
The Childhood Development Initiative
The Integration Centre
The Jack & Jill Children’s Foundation
The Unmarried and Separated Families of Ireland
Treoir
UNICEF Ireland
Young Ballymun
Youth Advocate Programme Ireland (YAP)
Youth Aftercare Support Service (YASS)
Youth Work Ireland