BABY ANN JUDGMENT IS A CLEAR EXAMPLE OF WHY WE NEED A REFERENDUM ON CHILDREN’S RIGHTS - CHILDREN’S RIGHTS ALLIANCE

Dublin, 13 November 2006 - The Children's Rights Alliance believes that today’s judgement in the baby Ann case is a clear example of why we need to amend the Constitution to provide for children's rights.

Jillian van Turnhout, Chief Executive, Children's Rights Alliance said, “The struggle between the birth parents and the prospective adoptive parents for custody of a two-year old girl, baby Ann, is a human tragedy for all involved. There are no winners in this case. However, the child is the greatest loser as her rights were not and could not be taken into account by the Supreme Court.”

The Supreme Court could only rely on the provisions of the Constitution for their judgment. Due to the absence of constitutional recognition for children’s rights the judges were not permitted to take the child’s best interest into consideration in their judgment.

“The fact that the child's birth parents had married (a year and half after the child's birth) had a significant impact on the case. I am saddened by the fact that the outcome in this case hinged on the legal entitlements of two different sets of adults rather than on what was in the best interest of baby Ann”, remarked Ms van Turnhout.

“The concluding remarks of Mrs. Justice Mc Guinness make for stark reading. She said ‘The present case must, however, be decided under the Constitution and the law as it now stands. With reluctance and some regret I would allow this appeal.’”

The fact that the court’s decision could not take into account Ann’s welfare did not stop Justice McGuinness commenting on the implications of the judgement on Ann. McGuinness noted that the judgment was made despite the expert medical witnesses “all agreeing that an immediate or summary change of custody is virtually certain to cause severe psychological damage to the child… I remain uncertain and apprehensive about the effects of a transfer of Ann’s custody, and about her future in general.”

Ms van Turnhout continued, “Whilst I am aware that the baby Ann case is very specific, it does however raise important issues that need to be debated. As a society are we satisfied that our Constitution has served us well in this case? I believe we need urgent reform to ensure that when next the courts are face with a decision on a child’s welfare that they have the power to, and moreover are obliged to, put the child’s best interest at the centre of the case. We must learn from this case, we must examine the remarks of the highest judges in the country and move beyond debates about entitlements to children, children are not objects to be owned, they must be afforded rights of their own.”

At the request of the Minister for Children, Mr. Brian Lenihan, the Children's Rights Alliance is currently leading the consultation with the non-governmental sector in relation to the Government's formulation of the wording for the proposed constitutional amendment. The Alliance is a coalition of eighty non-governmental organisations, which aims to secure the implementation in Ireland of the UN Convention on the Rights of the Child.
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