

Children's Rights Alliance

Press Release

18 July 2003

For Immediate Release

New policies fail to address Government's obligation to protect and promote the best interests of Irish children of non-national parents.

The Children's Rights Alliance today criticised the new Government policies regarding the deportation of non-nationals with Irish children, saying they fail to respond to the Government's obligation to establish procedures to ensure that the best interests and constitutional rights of Irish children are fully protected under any arrangements providing for the deportation of their parents or, effectively, the children themselves.

"For more than a year," said Raymond Dooley, Chief Executive of the Children's Rights Alliance, "we have been urging that the rights not be treated as a mere footnote to the issue of asylum and residency policy and have called on Government to put in place procedures to safeguard the fundamental rights of the children involved."

"At an administrative level, a system of procedures must be designed, developed, resourced and put into place to ensure that the rights of the children are adequately protected. Minimally, this would involve the following steps being taken:

-It must be a requirement that a Child Impact Review be undertaken before any official action is taken that would bring about the effective deportation of an Irish citizen child.

-The Child Impact Review must involve a thorough examination of the circumstances prevailing in the foreign country to which the child may be forced to go.

-This Review would include a close look at the practices and policies that would bear upon the child's ability to vindicate his or her constitutional and human rights in the country in question.

-Following the examination, written findings would be made.

-The findings would be assessed against standards that would need to be designed and developed to enable officials conducting the Review to determine whether it would be in the best interests of the child to be transported to the country in question.

-Staff responsible for conducting these Reviews must receive adequate training in children's rights and in the requirements of relevant international

and domestic law.

-Particular attention must be paid to section 3 of the Guardianship of Infants Act, 1964 and to section 24 of the Child Care Act, 1991 which provide that the first and paramount consideration be given to the welfare of the child, and to Ireland's obligations under the UN Convention on the Rights of the Child regarding the primary consideration to be given to the best interests of the child in matters that affect them.

-Sufficient resources would need to be allocated to ensure that such Reviews would be undertaken in a manner consistent with a genuine respect for the rights of the child and with full regard to the momentous nature of the question to be decided.

We believe that unless the Government takes this approach to its responsibilities in this area, several outcomes will occur:

1. The State will proceed on a systematic basis to take actions in violation of the basic constitutional and human rights of Irish children.
2. The State will find itself facing litigation for years to come from those whose rights were abrogated.
3. Test cases will be taken that will, in all likelihood, result in a deportation order being overturned by a higher court as occurred in Canada when the Canadian Supreme Court determined in 1999 in *Baker v Canada* that insufficient weight had been given to the fundamentally important impact that a non-national parent's deportation would have upon her children and upon their rights and welfare.

The recent Irish Supreme Court decision in the O and L cases may have permitted the State to deport non-national parents in two particular instances, but it does not permit the State to absolve itself of its responsibility to promote and protect the rights of Irish children whose parents are subject to possible deportation.

Until safeguards are established and adequate procedures are put into place, there should be a moratorium on the effective deportation of any Irish citizen children.

The Children's Rights Alliance is a coalition of 74 Irish NGOs concerned with the rights and needs of children. The Alliance works to secure the full implementation of the principles and provisions of the UN Convention on the Rights of the Child.

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