

Small Voices: Vital Rights

**Submission to the United Nations Committee
on the Rights of the Child**

The Children's Rights Alliance - Republic of Ireland

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**Compiled and written by
URSULA KILKELLY**

PREFACE

It is difficult to read the United Nations Convention on the Rights of the Child without being inspired by the concept of childhood it delineates. Essentially, this Convention signals a fundamental change with regard to how children are viewed. It moves us from seeing children as the ‘property’ or ‘appendage’ of adults towards regarding them as developing citizens with their own rights which must be recognised.

Small Voices: Vital Rights is the Children’s Rights Alliance’s submission to the United Nations Committee on the Rights of the Child. It represents the fulfilment of one of the primary aims of the Children’s Rights Alliance: to develop a co-ordinated response from the non-governmental sector concerned with children on the extent to which the Convention on the Rights of the Child is being implemented in Ireland. This has posed significant challenges for a number of reasons. Firstly, a very comprehensive approach has been required given the breadth and range of issues covered by the articles of the Convention. These include education, health, family environment and alternative care, the welfare of children with disabilities, civil rights and freedoms, children’s cultural development, the protection of children from abuse, and the treatment of children from minority groups.

Secondly, notwithstanding a growing level of co-operation, the non-governmental sector concerned with children is characterised more by fragmentation than cohesion. The difficulties and possibilities of co-ordination within the sector have been apparent in the preparation of this submission. During the process, membership of the Children’s Rights Alliance grew from eleven to sixty organisations. *Small Voices: Vital Rights* represents the distillation of information and perspectives of a wide range of member organisations including child welfare agencies; youth representative groups; parent organisations; unions and professional associations representing those working with children; and others with a commitment to children’s rights and welfare.

Thirdly, if changes of the nature demanded by the Convention on the Rights of the Child are to come about, it is not enough for non-governmental organisations to work together or indeed for statutory agencies to work together. It is important that both sectors work with each other. There are, of course, different contributions to be made by each sector and different positions to be taken at times. However, there is one aspect about which there is clear agreement – the insufficiency of resources available. Adopting a co-ordinated approach, therefore, in order to combine our respective resources, including skills, expertise and knowledge, simply makes sense. One of the basic principles underpinning the work of the Children’s Rights Alliance is that of working co-operatively with other agencies, both governmental and non-governmental, where this is in the interests of children. Such co-operation is only possible in an atmosphere of good relations characterised by mutual respect.

The Children’s Rights Alliance valued the invitation from the Department of Foreign Affairs to enter into a process of consultation during the drafting of the *First National Report of Ireland* to the UN Committee on the Rights of the Child. In turn, the Children’s Rights Alliance consulted formally and informally with relevant government departments during the drafting of this submission. *Small Voices: Vital Rights* has benefited from the observations made by the Department of Foreign Affairs, the Department of Health, the Department of Education, the Department of Social Welfare, and the Department of Justice.

The contributions of all of those who have been involved in the preparation of *Small Voices: Vital Rights* have been important and appreciated. The significance of this submission lies in its potential to influence attitudes, policy and practice over the coming years. As with the rights of women and other groups, the process of truly recognising the rights of children is likely to be a protracted one. However, it is a process which will gather momentum and one which, I believe, will lead to many benefits for children in the future.

Madeleine Clarke
Chairperson
Children’s Rights Alliance

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This submission represents the views of the Children’s Rights Alliance on the implementation of the United Nations Convention on the Rights of the Child in Ireland. As such, the participation and contribution of Alliance members was instrumental in its completion.

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THE CHILDREN'S RIGHTS ALLIANCE

The Children's Rights Alliance (Republic of Ireland) is a national umbrella body in Ireland which represents a wide range of non-governmental organisations concerned with the rights and welfare of children. The Children's Rights Alliance (the Alliance) began as an informal grouping of eleven organisations in September 1993. Subsequent to research funded by the Calouste Gulbenkian Foundation to ascertain the level of interest in the development of a broader initiative dedicated to the implementation of the UN Convention on the Rights of the Child in Ireland, the Alliance was formally launched in March 1995. There are currently 60 organisations in membership, including a wide range of child welfare agencies, youth representative groups, professional groups and unions, parent organisations and others with a commitment to children's rights.

The purpose of the Alliance is to raise awareness of the UN Convention on the Rights of the Child and to seek its implementation in Ireland. To this end, the Alliance seeks to work collaboratively with statutory authorities, government departments, and politicians. The Alliance was consulted by the Department of Foreign Affairs during the drafting of the *First National Report of Ireland* to the UN Committee on the Rights of the Child. (See Chapter X of that Report)

Since its inception, the Alliance has been engaged in three main tasks. The first task was to prepare this submission, which involved extensive consultation within the Alliance and represents the views of its members on the implementation of the UN Convention in Ireland. The Alliance also sought the comments of relevant government departments.

Its second task has been to work towards the establishment of an Office of Ombudsman for Children in Ireland. With funding provided by the Department of Health and the Calouste Gulbenkian Foundation, the Alliance undertook an examination of arrangements in other jurisdictions in order to recommend how children's rights might be best promoted and protected in Ireland. The research, which was undertaken by an independent researcher, concluded that an Ombudsman or Commissioner for Children should be established in Ireland and detailed the remit of such an office.¹ The research report was published and presented to the Minister of State with special responsibility for children on 4 September 1996. On 23 December 1996, the Minister of State made a public statement expressing his full commitment to the establishment of an Office of Ombudsman for Children in Ireland.

Thirdly, the Alliance has dedicated itself to raising awareness of the Convention in Ireland. A pilot project aimed at children and adults has been undertaken in this regard. A more comprehensive, strategic and long-term awareness raising campaign is being researched and planned by an independent communications company. It is hoped that this will be implemented in co-operation with and support from the Government and statutory authorities.

The rapid and continuing increase in membership of the Children's Rights Alliance is an encouraging and significant development in Ireland. The UN Convention on the Rights of the Child provides the framework for non-governmental organisations to work together in the best interests of children.

¹ M. Cousins, *Seen and Heard: Promoting and Protecting Children's Rights in Ireland* (Dublin: Children's Rights Alliance, 1996).

FOREWORD

The United Nations Convention on the Rights of the Child sets out the rights guaranteed to children and young people under 18 years in all areas of their lives and it imposes obligations on parents, the family, the community and the State in this regard. The Convention has three guiding principles: firstly, Convention rights must be guaranteed to all children without discrimination; secondly, the child's best interests must govern all actions concerning the child, and thirdly, the child has the right to be consulted in all matters concerning him or her, in accordance with age and maturity.

Ireland signed the Convention on the Rights of the Child on 30 September 1990 and ratified it without reservation on 21 September 1992. This binding treaty, which is the most highly ratified instrument in international law, entered into force in Ireland one month later.

Pursuant to Article 43 of the Convention an international body of experts, known as the UN Committee on the Rights of the Child, has been established to monitor the implementation of the Convention. For this reason, each country must report to the Committee within two years of ratification (and thereafter every five years) detailing the measures which have been adopted to give effect to the rights set out in the Convention and indicating any factors and difficulties affecting the degree of fulfilment of the obligations also set out thereunder. The *First National Report of Ireland* was received by the Committee in April 1996 for its consideration in 1998. By means of constructive dialogue with an Irish Government delegation, the Committee's aim is to identify ways of achieving a greater degree of implementation of the Convention in Ireland.

The Convention confers a formal role on non-governmental organisations (NGOs) in the reporting process in recognition of their special expertise and status. NGOs are encouraged to assist the Committee throughout and, in particular, they may furnish the Committee with relevant and reliable information on areas which may be covered inaccurately or inadequately in the National Report or they may choose to present an alternative analysis of the implementation of the Convention in the country concerned. This submission represents the views of the members of the Children's Rights Alliance on the implementation of the Convention in Ireland. It is presented to the UN Committee on the Rights of the Child to assist the experts in their examination of the *First National Report of Ireland*, and to maximise the impact of the reporting process in the case of Ireland to the benefit of all Irish children.

The process of preparing a National Report offers an important occasion for conducting a comprehensive review of the various measures undertaken to harmonise national law and policy with the Convention. The process should encourage and facilitate popular participation and public scrutiny of government policies. In order to enhance the appropriateness and quality of National Reports, thereby improving the overall effectiveness of the reporting mechanism, the Committee adopted guidelines regarding the form and content of reports.² According to these guidelines, those rights most closely related are grouped together in a manner which reinforces the indivisibility of the rights under the Convention and facilitates consistency in the Committee's approach to monitoring implementation. The eight categories are: general measures of implementation; definition of the child; general principles; civil rights and freedoms; family environment and alternative care; basic health and welfare; education, leisure and cultural activities; special protection measures. The guidelines set out the various provisions of the Convention to be dealt with under each heading.

In accordance with these guidelines, the Alliance has listed the issues of concern which have been identified by members under the relevant provisions of the Convention, grouped according to the eight headings. Where relevant the Alliance also makes recommendations for action. It is desirable to read this submission together with the *First National Report of Ireland*; this format should facilitate this task. The submission begins with a general introduction to the situation of children in Ireland.

² *General Guidelines Regarding the Form and Contents of Initial Reports to be Submitted by States Parties under Article 44 § 1a of the Convention* (Geneva: UNCRC, 1991).

INTRODUCTION

1. There is limited information available on the situation of Irish children and there is no comprehensive government publication which brings together all data on children in Ireland. The Census of Population in 1996 showed that the total population was 3.6 million,³ but data relating to age have not yet been analysed to produce a figure for the population under 18 years. Of the population recorded in the 1991 Census, 31% were under 18.

Statutory Responsibility for Children's Affairs

2. Statutory responsibility for children's affairs in Ireland is divided among different government departments, principally the Departments of Health, Education, Justice, Social Welfare, and Equality and Law Reform. Ireland does not have a department of social services, children or the family; responsibility for the welfare of children in need of care and protection, and children with disabilities, lies with the Department of Health. The administration of health services is carried out by eight regional health boards. The Department of Education has ultimate responsibility for the provision of primary, secondary and third level education. It is also involved in the provision of pre-school education for children with disabilities and, to a limited extent, for some disadvantaged groups. The Department of Justice has principal responsibility in the area of juvenile justice, although this is shared to a certain extent with the Department of Education, whose responsibilities include the management of special schools for young offenders. The Department of Social Welfare has primary responsibility for devising and implementing social security policy. The Department of Equality and Law Reform was established in 1993 and to date its work has included the preparation of legislation on equality and on divorce.

Co-ordination between Government Departments

3. These government departments have tended to work in a separate and unco-ordinated fashion in relation to children's affairs. At times, this lack of co-ordination can be seen both within and between departments. It is particularly evident in the area of health where the health boards operate largely on an independent basis, leading to a patchy and uneven distribution of services to children and families in need.

³ Central Statistics Office, *Census '96: Preliminary Report*, (Dublin: Stationery Office) 1996.

4. A Minister of State at the Departments of Health, Education and Justice with special responsibility for children was appointed by the Government in 1994. Developments subsequent to this appointment include the preparation and signing of the remaining regulations necessary to enable the implementation of the Child Care Act, 1991, the publication of the Children Bill, 1996, which revises legislation in relation to children in conflict with the law, and the School Attendance Bill due to be published in 1997. There is now improved co-ordination between the Departments of Health, Justice and Education; this was evident, for example, during the preparation of the Children Bill, 1996. Furthermore, the Department of Equality and Law Reform has undertaken to chair an expert working group to develop a national strategy on the care and education of young children - an initiative which will also demand a more co-ordinated approach between government departments. However, it has been noted by the Commission on the Family,⁴ a group established by the Minister for Social Welfare, and more recently by the Commission on the Status of People with Disabilities,⁵ that co-ordination between departments with responsibility for children's affairs remains inadequate.

Role of the Non-Governmental Sector

5. A large proportion of services in areas such as family support, pre-school care, community development and other supports to vulnerable children and families are provided by the NGO sector. Unfortunately, the sector has tended to operate in a fragmented fashion. Ireland's ratification of the UN Convention on the Rights of the Child and the formation of the Children's Rights Alliance have provided groups with concern and responsibility for children with the opportunity to work together more effectively.

Co-ordination between Governmental and Non-Governmental Sectors

6. Relationships are weak between governmental and non-governmental sectors with regard to the

⁴ Commission on the Family, *Strengthening Families for Life: Interim Report to the Minister for Social Welfare* (November, 1996).

⁵ *A Strategy for Equality: Report of the Commission on the Status of People with Disabilities* (Dublin: Stationery Office, 1997) § 11.5, p 171.

formulation and implementation of policy to meet children's needs. Policy decisions are often taken by statutory authorities with little or no involvement from the NGO sector. Any involvement which does occur results more often from lobbying by NGOs than from invitation by statutory authorities. In the past, the fragmentation of the NGO sector has made consultation difficult. However, the situation is beginning to improve and in recent times, government departments have increasingly sought consultation with NGOs. The Alliance is encouraged by the consultation which took place with regard to mandatory reporting of child abuse, the social services inspectorate and pre-school regulations. However, there is a need to put formal structures in place to enable positive, collaborative relationships to develop with and between government and non-governmental sectors thereby facilitating the implementation of the UN Convention in Ireland. The Alliance welcomes the issuing of the *Green Paper on the Community and Voluntary Sector and its Relationship with the State* by the Department of Social Welfare and the commitment that the Department will undertake a consultative process in relation to the issues discussed in this with a view to preparing and publishing a White Paper on the subject within twelve months.⁶

The Irish Family

7. Since the adoption of the Irish Constitution in 1937 the nature of the Irish family has changed dramatically. The *Report of the Constitution Review Group* 1996 noted that in Irish society the family has been profoundly affected by social trends and that

the traditional Roman Catholic ethos has been weakened by various influences including secularisation, urbanisation, changing attitudes to sexual behaviour, the use of contraceptives, social acceptance of premarital relations, cohabitation and single parenthood, a lower norm for family size, increased readiness to accept separation and divorce [and] greater economic independence of women.⁷

8. Since 1937, there has been a 30% drop in the birth-rate from 18.6 to 13.4 per 1,000.⁸ However, the birth rate is increasing among the Travelling Community, the main minority group.⁹

⁶ *Supporting Voluntary Activity: A Green Paper on the Community and Voluntary Sector and its Relationship with the State* (Dublin: Stationery Office, 1997).

⁷ *Report of the Constitution Review Group* (Dublin: Stationery Office, 1996), p. 319.

⁸ Central Statistics Office, 1996.

⁹ *Report of the Task Force on the Travelling Community* (Dublin:

9. In the past 25 years, births outside marriage have risen from 3% to 25% of all births; this latter figure would include children born to persons in ongoing non-marital relationships as well as births to lone parents.¹⁰ In the late 1980s, it was estimated that there was a minimum of 40,000 lone parent families in Ireland, making up at least 10% of all families with children under 15 years. It is believed that this figure has since increased. In 1995, 677 children were born to mothers under the age of 18 and the vast majority of these births occurred outside marriage. The previous lack of divorce in Ireland and the significant increase in the incidence of marital breakdown have meant that there are many couples living together, some with children, who may wish to be married. In 1996, the Irish people voted in favour of removing the constitutional ban on divorce and the Family Law Divorce Act, 1996, which provides for divorce, came into force on 27 February 1997. There has been an increase from 5.6% to 32.4% in the proportion of married women who work outside the home.¹¹

The Irish Economy

10. The Irish economy is the current leading European performer in the OECD and is likely to continue as such in the short to medium term.¹² The Government recorded a surplus of almost £300 million in its budget in 1996 which was the strongest exchequer performance for many years.¹³ Economic growth levels in Ireland have been historically high for the last five years averaging at approximately 5.5%.¹⁴ The national debt has fallen for the first time in 39 years and the debt-to-GDP ratio has fallen more than 8%.¹⁵ 1996 was a record year for the retail and property markets.¹⁶ Although emigration continues, it is now exceeded by in-migration; whereas in 1990 net migration was minus 2,000, in 1996 it was plus 5,700.¹⁷ The accumulation of these and other events indicates favourable economic conditions which are likely to continue.¹⁸

Children Living in Poverty

11. Research shows that in Ireland, children are more likely to experience poverty than adults and that

¹⁰ Central Statistics Office, 1997; see also *The Irish Times*, 31.3.1997.

¹¹ *Report of the Constitution Review Group*, *op cit*, p 319.

¹² *Business and Finance*, 28.11.1996, p 28.

¹³ Department of Finance, *End-Year Exchequer Returns*, 3.1.1997.

¹⁴ *The Irish Times*, 16.12.1996.

¹⁵ Department of Finance, *op cit*.

¹⁶ *The Irish Times Review*, 1996, 28.12.96; *Business and Finance*, 28.11.1996, p 32.

¹⁷ Central Statistics Office, *Annual Population and Migration Estimates 1991-1996* (CSO Statistical Release, 1996).

¹⁸ *Business and Finance*, 28.11.1996, p 31.

households with children, especially single parent families and those with three or more children, are susceptible to a relatively high risk of poverty.¹⁹ There are up to 5,000 homeless people in Ireland at any one time²⁰ and over 400 children living on the streets of Dublin every year.²¹

Children in Employment

12. The 1996 Labour Force Survey indicated that there are 61,700 persons aged between 15 and 19 in the labour force (14 % of the age group). Of this number, 43,100 were in employment (88% full time); almost 12,000 were seeking their first regular job, and 6,700 were unemployed.²² Although there is legislation in place to protect young people in employment from exploitation there are no effective measures of enforcement in place.

Income Support

13. In 1995 over 490,000 families were in receipt of Child Benefit in respect of over 1,000,000 children.²³ Child Benefit is a non means-tested payment. In addition, 11,400 families were receiving Family Income Supplement, a means-tested benefit for low income families at work.²⁴ The full rate of the Child Dependant Allowance was paid in respect of 354,200 children and the Allowance was paid at half rate in respect of a further 119,300 children.²⁵ In 1995, 1,064 children were in receipt of an Orphan's Pension/Allowance.²⁶

Education

14. The Education Bill, 1997 represents long-awaited legislation on the education system in Ireland. The Bill sets out the rights of children and parents within the educational system and in particular, it provides for the right to support services, information (on children and the work of the school) and a very limited right to appeal where the decision of a school would materially affect a student's education. The Bill also makes provision for the parent's right to be consulted and the right to choose the school which

children attend, balancing the latter with the constitutional rights of others, including denominational schools.

15. The Department of Education has previously operated on a centralised basis, but the Education Bill, 1997 provides for the establishment of regional education boards which would allow for consultation with parents on the planning of educational facilities in their region.

16. Attendance at school is compulsory between the ages of 6 and 15. The White Paper on Education stated an intention to make schooling compulsory up to the age of 16 or until the completion of 3 years of post-primary education, whichever is later.²⁷ It is anticipated that the forthcoming School Attendance Bill will deal with the raising of the minimum school leaving age. In the 5 to 14 age group, school enrolment approaches 100%; after 14, it declines slowly. Over 80% of 17-year-olds are enrolled in full-time education. However, these figures disguise specific problems of non-attendance and school dropout. For example, only 20% of Traveller children in the 12 to 15 age group attend school.²⁸ In Dublin schools, it is estimated that one pupil in seven is affected by school attendance difficulties to some extent and 8% of children who leave primary school may not progress to second level at all.

17. Education in Ireland, both at primary and secondary level, is denominational. Over 20,000 children are now enrolled in schools (at both levels) in which they are educated through the Irish language.²⁹

18. Less than 2% of children under 3 years attend publicly funded pre-school services, one of the lowest levels in the EU. In 1994, about half of all 4-year-olds attended primary school. There is no national policy with regard to the provision of pre-school education. However, day care for children considered to be at risk of neglect or abuse is partially state-funded as is pre-school education for children with disabilities and some of those who are from economically disadvantaged communities.

Children in Care and Adoption

19. The number of Irish children placed for adoption has fallen significantly over the past thirty years and most particularly since 1984. In 1967,

¹⁹ T Callan *et al*, *Poverty in the 1990s: Evidence from the 1994 Living in Ireland Survey* (Dublin: Oak Tree Press 1996).

²⁰ Submission by Focus Ireland to the Children's Rights Alliance, 1995.

²¹ Eastern Health Board, *Notification of Young People Out of Home in the Eastern Health Board in 1993* (Dublin: Eastern Health Board, 1994).

²² Data supplied by the Central Statistics Office, Labour Market and Social Statistics Division, 1997.

²³ Department of Social Welfare, *Statistical Information on Social Welfare Services* (Dublin: Stationery Office, 1996) p 34.

²⁴ *Ibid*, p 36.

²⁵ A Child Dependant Allowance is payable at half rate where a spouse living with the recipient is not an adult dependant. Department of Social Welfare, *op cit*, p 7.

²⁶ *Ibid*, p 7.

²⁷ *Charting our Education Future: White Paper on Education* (Dublin: Stationery Office, 1995) p 63.

²⁸ Irish National Teachers' Organisation, *Travellers in Education* (Dublin: INTO, 1992).

²⁹ An Comhchoiste Réamhscolaíochta Teo., *Oideachas trí Mheán na Gaeilge in Éirinn 1996-1997 sa Ghalltacht*, 1997.

adoption orders were made in respect of 1,493 children, by 1984, the number had fallen to 1,195 and in 1995 only 490 adoption orders were made, 297 of which were family adoptions.³⁰ The reduction in the number of children placed for adoption reflects changing attitudes towards children born outside of marriage in Ireland over this period. A consequence of this has been an increasing interest in adopting children from other countries in recent years, particularly from Romania and China.

20. Department of Health figures for 1992, the most recent year available,³¹ indicate that there were 3,090 children in care.³² Three-quarters of these children were in foster care with a further quarter in residential care,³³ reflecting a long-term decline in the number of children in residential care.³⁴ This is also reflected in the fact that there are currently 200 children in special schools (residential schools for children in conflict with the law) compared to over 2,000 in the mid-1960s. However, children coming into residential care are now more damaged and more disruptive as well as older. This means that the work carried out by staff in residential centres is demanding, highly skilled and very stressful.³⁵

21. According to 1992 figures,³⁶ the principal reasons for the admission of children were 'parent or parents unable to cope' (31%), 'neglect' (20%), 'parental illness' (12%) and 'physical or sexual abuse' (8% and 5%).³⁷ Just over 50% of all children in care were there on a voluntary basis and the remainder were there as a result of a court order. Almost 60% of children in care were aged between 7 and 16.

22. In 1992,³⁸ 22% of the children in care had been there for over ten years, 29% for between 5 and 10 years

³⁰ *Report of An Bord Uchtála (The Adoption Board) 1995* (Dublin: Stationery Office, 1996) pp 17-18.

³¹ Although statistics for 1996 have been compiled they are not yet available. Figures for the intervening years, 1993, 1994 and 1995 were not collected.

³² Department of Health, *Survey of Children in the Care of the Health Boards in 1992* (Dublin: Department of Health, 1993).

³³ *Ibid.*

³⁴ In 1981 nearly 50% of children in care were fostered. In 1989 this had risen to nearly 72%. R. Gilligan, 'Ireland' in M. J. Colton and W. Hellincks (eds), *Child Care in the EC - A Country-Specific Guide to Foster and Residential Care* (Aldershot: Arena, 1993) pp 118-138. See also Focus Ireland, *Focus on Residential Child Care in Ireland* (Dublin: Focus Ireland, 1996).

³⁵ Focus Ireland, *op cit*, pp 11-12.

³⁶ Department of Health, *op cit*.

³⁷ However, more recent research indicates that 14% of children were in residential care because of their family's inability to cope and over 25% of children were in residential care due to physical or sexual abuse (Focus Ireland, *op cit*, p 53).

³⁸ Department of Health, *op cit*.

and 26% for between 2 and 5 years. Slightly more than half the children (52%) were male. The three main family types of the children in care were a married couple living together (29%), a lone unmarried parent (29%) and a married couple living apart (22%).

Child Abuse and Exploitation

23. There are no reliable statistics available on the number of children who have been abused or neglected. It is the responsibility of the health boards to produce such statistics, but the Alliance believes that the figures published are lacking in accuracy and credibility. Available information indicates that confirmed cases of child abuse increased by 298% between 1987 and 1995 although it is difficult to estimate whether the increase reflects a higher incidence of child abuse or of reporting. In 1995, the health boards received 6,400 reports of alleged child abuse.³⁹ There were 765 cases of child sexual abuse reported in 1995, representing an increase of 327% on the figure for 1985.⁴⁰ Most sexual abuse occurs within the family and more than three-quarters of children who are sexually abused come from families with social problems.⁴¹ There is also evidence to suggest that children as young as 12 are working as prostitutes in Dublin and some provincial centres.⁴²

Children in Conflict with the Law

24. The current age of criminal responsibility is 7 years although the Children Bill, 1996 provides for the age to be raised to 10, with the possibility of raising this to 12 at a later date.

25. *The Policy of An Garda Síochána in Respect of Juvenile Offenders* (1991) stipulates that young offenders should not be prosecuted unless the serious gravity of the crime, the past offences of the offender or other circumstances warrant a prosecution. Instead, diversion is to be used to steer young people under 18 away from further crime or involvement in the criminal justice system.⁴³ This scheme is operated by the National Juvenile Office. In 1995, 11,500 juveniles (84% of whom were male) were referred to the Office. Of this total, 2,500 were prosecuted and 5,800 were cautioned, a system whereby a young person who

³⁹ Child Care Policy Unit, Department of Health, 1996.

⁴⁰ Child Care Policy Unit, Department of Health, 1996.

⁴¹ K. McKeown and R. Gilligan, 'Child Sexual Abuse in the Eastern Health Board Region of Ireland in 1988: An Analysis of 512 Confirmed Cases', *The Economic and Social Review*, Vol 22, 101-134 (January 1991).

⁴² A. McCarthy, *The Irish Times*, 20.8.1996; *The Irish Times*, 28.11.1996; Barnardo's 1997; J. Mooney, *The Big Issues*, 9.4.1997.

⁴³ Dáil Eireann, *First Report of the Select Committee on Crime: Juvenile Crime - Its Causes and its Remedies* (Dublin: Stationery Office, 1992), p14.

admits committing an offence receives either a formal or an informal warning and may then be put under the supervision of a member of the Gardaí (police). Only 11% of those cautioned under the juvenile liaison scheme since its inception in 1963 have reoffended and been prosecuted before the age of 18 years.⁴⁴

26. Research has consistently found that juvenile offenders in Ireland tend to come from families characterised by unemployment and alcohol abuse.⁴⁵ Factors such as truancy, educational failure, drug abuse and homelessness have also been identified as significantly associated with juvenile offending.⁴⁶

27. The Alliance welcomes the Children Bill, 1996 which revises the system of juvenile justice in Ireland and replaces juvenile justice legislation which dates from 1908. In particular, it agrees with the emphasis in the proposed legislation on the prevention of delinquency and the diversion of young offenders from the formal system of criminal justice, including the placement of the juvenile liaison scheme on a statutory basis. The commitment of the Minister for Justice to providing the necessary resources to make the principles behind the Bill effective and practical is also welcome.

Children with Disabilities

28. There is no comprehensive information available on the number of children with disabilities in Ireland and the opportunity was missed in the 1996 census of population to determine accurate figures.⁴⁷ However, in April 1997 the Department of Health launched the National Intellectual Disability Database, which provides data on all people with mental disabilities.⁴⁸ Figures relating to the payment of Domiciliary Care Allowance suggest that there are approximately 8,000 children in Ireland who require constant care due to disability. There appear to be at least 30,000 children with some form of disability.⁴⁹ Approximately 8,000 pupils with disabilities are enrolled in 114 Special Schools and some 3,800 pupils with various disabilities are in special classes in primary schools. There are also about 8,000 pupils with specific disabilities in ordinary classes in primary schools, a further 2,300 pupils enrolled in 48 special

classes at post-primary level and another 100 pupils with disabilities enrolled in the five designated post-primary schools.⁵⁰

29. The Alliance welcomes the Report of the Commission on the Status of People with Disabilities published at the end of 1996.⁵¹ Although the comprehensive nature of the Report is encouraging, the Alliance is a little disappointed that specific problems relating to children with disabilities were not more adequately addressed. Nonetheless, the Alliance supports the recommendations made by the Commission and in particular, hopes that those concerning children with disabilities will be implemented without unnecessary delay.⁵²

⁴⁴ An Garda Síochána, *Annual Report 1995*, (Dublin: An Garda Síochána, 1996) p 55.

⁴⁵ See N. O'Gorman and J. Barnes, *Survey of Dublin Juvenile Delinquents*, St Michael's Assessment Unit, (Finglas), Dublin, 1991; M. Fitzgerald (ed), *Irish Families under Stress*, Vol 4 (Dublin: Eastern Health Board, 1995) pp 27-32.

⁴⁶ *First Report of the Select Committee on Crime*, *op cit*.

⁴⁷ *A Strategy for Equality*, *op cit*, p 7, § 1.11 and p 8, § 1.15.

⁴⁸ Media Release, Department of Health, 23 April 1997.

⁴⁹ *A Strategy for Equality*, *op cit*, p 288.

⁵⁰ *Ibid*, p 171 § 11.4.

⁵¹ *Ibid*. It is complemented by *Towards an Independent Future: Report of the Review Group on Health and Personal Social Services for People with Physical and Sensory Disabilities* (Dublin: Department of Health, 1996).

⁵² In January 1997, an inter-departmental task force was established to draw up a plan of action for the implementation of the Commission's recommendations. In addition, in April 1997, a committee was set up to monitor implementation.

I. GENERAL MEASURES OF IMPLEMENTATION

II. DEFINITION OF THE CHILD

A. Measures taken to Harmonise National Law and Policy with the Provisions of the Convention

30. While there have been many positive developments with regard to meeting children's needs in Ireland in recent years (including the introduction of new legislation and the development of policies which will benefit children) much remains to be achieved if Ireland is to fulfil its obligations under the Convention.

31. No review of law and policy in relation to children was carried out by the Government either before or after the Convention was ratified. The Alliance recommends that a detailed examination be undertaken of the extent to which Irish law, policy and practice are in harmony with the Convention. A commitment should be made to take seriously the conclusions and recommendations of such a review.

A national policy needs to be developed to ensure a co-ordinated and comprehensive approach towards implementation of the Convention.

32. There is very little information available on the extent to which children are enjoying their rights or being deprived of them. For example, there are no reliable figures on the number of children who have been abused or taken into care, who have disabilities or who are in need of specialised day care services. The Alliance recommends that comprehensive, detailed, up-to-date and reliable data be compiled with respect to children in different situations in Ireland. This information could be used to inform policy development and to further the implementation of the Convention.

33. Ireland does not have a comprehensive or co-ordinated approach towards the implementation of the Convention. For instance, policy may be decided on a local or narrowly-defined basis (for instance, from a purely educational or social welfare perspective or within the context of health boards' priorities which may differ from region to region) and it is often reactive or an ad hoc response to a specific crisis, demand or need. A national policy needs to be developed setting out the principles to be adhered to in order to comply with the Convention.

34. A national plan to implement this policy needs to be agreed. Such a plan could include short-term and long-term objectives and specific time-frames for reaching objectives.

35. The principles of the Convention are enshrined in some aspects of legislation and policies affecting children. However, the Alliance would argue that it is necessary to establish a formal mechanism to ensure that the Convention informs all legislation and policies affecting children.

36. At present, services for vulnerable children and children with disabilities in Ireland are significantly under-resourced. Although several progressive projects designed to meet the needs of children and parents have been initiated by both statutory and non-governmental agencies, many remain isolated examples which do not become part of mainstream services due to a lack of resources. In the absence of a national plan, the resources provided, which are in any case inadequate, have tended to be allocated in an arbitrary fashion. This has led to enormous pressures being placed on workers in statutory services; in particular, they struggle to deal with increasing demands for services to meet immediate or crises needs. Preventive services are also under-resourced.

37. The Child Care Act, 1991 was welcomed by both the voluntary and the public sectors. However, adequate resources have not been provided to put in place, in all parts of the country, the full range of services which its effective implementation would require. Furthermore, the provision of additional resources since 1993 has not been based on an overall assessment of children's needs. Nor has the allocation of these new resources reflected coherent planning and prioritising.

Adequate resources should be put in place to ensure effective implementation of the national plan.

38. There is a need to estimate the cost of the implementation of a national plan in order to ensure adherence to the provisions of the Convention. An indication should be given of the resources required to implement each phase of the plan.

39. Over the past thirty years, a number of officially-appointed bodies have produced reports aimed at improving the lives of children, particularly those who have been abused or neglected, children with disabilities and those from the Travelling Community. While some of the reports and their recommendations have been well-received by Government, any implementation of recommendations has been carried out on a piecemeal basis. The Alliance urges the Government to take a comprehensive and active approach to implementing promptly the recommendations of such reports.

40. In recent years there have been a number of instances where problems have arisen with regard to the publication of reports of inquiries into the failures of the child protection system. The Alliance is firmly of the view that a commitment should be made to publishing in full the reports of such inquiries.

41. The Children Bill, 1996 deals with the care and welfare of children in conflict with the law and contains some provisions about which the Alliance has concerns. In particular, it provides that the legislation shall come into force on such day or days as the appropriate Minister may decide, thus allowing for the gradual entry into force of the legislation, once it is enacted. A decision of the Supreme Court means that the relevant Minister will have complete discretion in deciding when, if ever, to bring a particular section into force.⁵³ The Alliance would prefer to see a statutory obligation placed on the Government to bring certain sections of the legislation, such as that relating to the age of criminal responsibility, into force within a specified time limit. The Alliance also urges the Government to make adequate resources available to implement effectively and on a broad scale the provisions of the Children Bill, in particular in relation to existing and proposed diversionary programmes and non-custodial options for dealing with young people who come into conflict with the law.

42. The Alliance believes that the recommendations made by the Constitution Review Group with respect to children should be implemented without delay.⁵⁴ In particular, the Group recommended that the Constitution be amended to recognise expressly the rights of the child which have been enumerated by the Irish Supreme Court.⁵⁵ These include the right to bodily integrity, the right to an opportunity to be reared

with due regard to religious, moral, intellectual and physical welfare,⁵⁶ the right to be fed and to live, to be reared and educated and to have the opportunity of working and realising his or her full personality and dignity as a human being.⁵⁷ Where a child has very special needs which cannot be met by the parents or guardian, the Supreme Court has recognised that there is a constitutional obligation on the State to cater for those needs.⁵⁸ The Group also recommended that the Constitution should contain an express obligation to treat the best interests of the child as of paramount consideration in any actions relating to children.⁵⁹

The Alliance recommends that the Constitution be amended to make express provision for the rights of the child.

43. The Constitution Review Group also recommended that as far as is practicable a child ought to have a constitutional right to his or her own identity which includes a knowledge and history of his or her own birth parents.⁶⁰ It found that the child ought to be entitled to this information not only for genetic and health reasons but also for psychological reasons. (At present adopted children do not have the right to their original birth certificates.) In addition, the child should have a right as far as is practicable to be cared for by both parents. This has particular implications where a child is born outside marriage. These recommendations show that these rights, which are set out in the Convention on the Rights of the Child, are not adequately guaranteed under Irish law. The Alliance urges the Government to accept and act on these recommendations.

44. The Alliance supports the recommendation made by the Constitution Review Group and others⁶¹ that the Constitution be amended to include a specific and express declaration of the rights of the child. The Alliance believes that such a declaration should include at minimum the principles of the Convention - non-discrimination, best interests and respect for the views of the child.

45. The Alliance welcomes the publication and approval of the Equal Status Bill 1996 which prohibits discrimination in the provision of goods, services and the disposal of accommodation, and provides for the

⁵³ *The State (Sheehan) v The Government of Ireland* [1987] IR 550.

⁵⁴ *Report of the Constitution Review Group*, 1996, *op cit*, pp 336-337.

⁵⁵ *Ibid*, p 328.

⁵⁶ *G v An Bord Uchtála* (1980) IR 32.

⁵⁷ *In re Article 26 and the Adoption (No 2) Bill 1987* (1989) IR 656.

⁵⁸ *FN (a minor) v Minister for Education* (1995) 2 ILRM 297.

⁵⁹ *Report of the Constitution Review Group*, *op cit*, p 337.

⁶⁰ *Ibid*.

⁶¹ *Kilkenny Incest Investigation* (Dublin: Stationery Office, 1993).

appointment of Equal Status Officers who would have the authority to receive and investigate individual complaints from members of the public.

B. Mechanisms at National Level for Co-ordinating Policies Relating to Children and Monitoring the Implementation of the Convention

46. There is no structure in place which monitors the implementation of the Convention at national level or ensures co-ordination and co-operation in relation to implementing the Convention or general policies relating to children.

47. Furthermore, there is a need for a system of accountability with regard to the promotion and protection of children's rights. The Alliance is of the view that an Office of Ombudsman for Children, established on a statutory, independent basis and reporting directly to parliament, could fulfil this and other functions. Such an office could also have responsibility for both promoting and protecting children's rights and could also establish ongoing dialogue with children. The Children's Rights Alliance is committed to working towards the establishment of such an office and it is encouraged by the public commitment to establish this office made by the Minister of State in December 1996.⁶²

The Alliance recommends that an Office of Ombudsman for Children be established on an independent, statutory basis to protect and promote children's rights.

48. Although the appointment of a Minister of State with special responsibility for children is welcome and has led to improved co-ordination between the Departments of Health, Education and Justice, the degree of co-ordination in relation to policy and practice between government departments concerned with children continues to be inadequate. In addition, the position is at junior ministerial level; the Minister of State is not a member of the Cabinet and is dependent on 'parent ministries' to put business through the Cabinet. The Government has constitutional authority to appoint a Minister to such areas as it sees fit (within a maximum limit of fifteen); the appointment of a Minister of Equality and Law Reform is an example in recent times of the Government exercising this power. The Alliance believes that there is a case to be made for the appointment of a Minister of children and youth

affairs to further the interests and rights of children in accordance with the Convention.

49. The Alliance is of the view that the implementation of the Convention requires the active participation of and effective co-ordination between non-governmental and government sectors. In Ireland, NGOs play a significant role in providing services for children and in seeking to influence the development of policy. However, the expertise and potential to contribute of the NGO sector needs to be recognised and encouraged. Formal structures are necessary to facilitate NGO input into policy development and to facilitate co-ordination between the two sectors generally.

C. Publicising the Provisions of the Convention (Article 42)

50. There is a very low level of awareness among adults and children of the Convention's existence, much less its principles and provisions. No public information campaign on the Convention has been carried out to date. Although copies of the Convention were sent to school principals and the text of the Convention is available on the Department of Foreign Affairs' web site on the Internet, no follow-up campaign has taken place and no attempt has been made to adapt the Convention into a format which would be easily understood by young children or to include it in school curricula.

The Alliance believes that a widespread awareness raising campaign on the Convention should be undertaken immediately.

51. The Alliance is of the view that a widespread campaign, including the adaptation of the Convention into formats which can be easily understood by all children, including Traveller children and Irish-speaking children, should be undertaken immediately. The Children's Rights Alliance has been undertaking an awareness raising campaign on a pilot basis and the Departments of Health, Education, Justice and Foreign Affairs are represented on the steering committee for this project. However, a more comprehensive, strategic and long-term awareness raising campaign is being researched and planned by an independent communications company on behalf of the Alliance. It is hoped that this campaign will be implemented in co-operation with and support from the Government and statutory authorities.

52. Awareness of the Convention is estimated to be poor among professionals working with children, and government agencies providing services for families

⁶² Department of Health, *Putting Children First: Promoting and Protecting the Rights of Children* (Dublin: Stationery Office, 1997) pp 8-9.

and children. The Alliance urges the Government to undertake to have the Convention and other relevant human rights instruments included on the training curricula of all professionals concerned with children, such as lawyers, social workers, child care workers, teachers, doctors, nurses and police. The Government should also encourage the inclusion of the Convention in training programmes for volunteers working with children.

D. Publicising the First National Report of Ireland (Article 44 § 6)

53. The *First National Report of Ireland* has not been made widely available to the public and it is not available in the Irish language at all. Although it is for sale in the Government Publications Sales Office little effort has been made to publicise the Report and as a consequence there has been hardly any public or media debate on it.

54. The Alliance recommends that the *First National Report*, together with the UN Committee's conclusions and recommendations, should be made widely available and publicised.

II DEFINITION OF THE CHILD

55. For the purposes of both the Child Care Act, 1991 and the Children Bill, 1996, a child is defined as every person under the age of 18 years. The Alliance welcomes this.

56. The age of criminal responsibility is currently 7 years, although the Children Bill, 1996 proposes raising it to 10 years, with the possibility of an increase to 12 years at a later date. The Alliance recommends that the age of criminal responsibility be raised immediately to a minimum of 12 years.

III. GENERAL PRINCIPLES

A. Non-Discrimination (Article 2)

Ensuring Policy of Non-Discrimination

57. The Alliance recommends that a specific enforceable means of ensuring the consistent implementation of all policies, practices and administrative and other procedures and structures should be established to ensure that rights under the Convention are guaranteed to every child without discrimination. The proposed Office of Ombudsman for Children could undertake this task and also provide an opportunity for cases to be investigated independently where children's rights are infringed.

58. The Alliance welcomes the Equal Status Bill which prohibits discrimination in the provision of goods and services and which will allow Ireland to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, which it signed in 1968.

The Alliance recommends that a specific enforceable means of ensuring the consistent implementation of all policies, practices and other procedures be established to ensure that rights under the Convention are guaranteed to every child without discrimination.

Regionalisation of Administration of Health Services

59. The administration of health and related services through eight regional health boards which have the authority to adopt different priorities, and the absence of a national policy on gathering information on children's needs and how they can be met, result in different levels of services being provided to children in different areas of the country.

Unequal Access to Health Services

60. Concern about delays in gaining access to public health services, in particular hospital in-patient and out-patient care, has resulted in a significant proportion of the population joining private health care schemes. As a result there is differential access to health services, with speed of access related to economic circumstances.

Children of Non-marital Families

61. The Irish Supreme Court has found that neither a non-marital family nor its members are entitled to any of the protection of Article 41, the Constitutional

provision which protects the family. Under Article 40 § 3 of the Constitution, an unmarried father has no personal rights with regard to his children, for example he has no automatic right to guardianship, access or custody. There has been much criticism of the continued constitutional exclusion of natural fathers.⁶³

62. In the context of inserting an equality provision into the Irish Constitution, the Alliance recommends that discrimination on the grounds of parental status be expressly prohibited.

63. The Children Bill 1997 amends some aspects of the law in relation to the guardianship rights of certain fathers. The Alliance welcomes that it provides for unmarried parents to be made joint custodians and for unmarried fathers to be granted guardianship rights by agreement. There is division among the membership of the Alliance in relation to the granting of guardianship rights to unmarried fathers where such agreement does not exist. The majority view is that there should be a statutory presumption that such rights should be granted to fathers on application, unless there are compelling reasons to deny such rights. The view held by the minority is that automatic but defeasible joint guardianship rights should be granted to the father on establishment of paternity and that the possibility should exist for the guardianship rights of either parent to be removed by a court.

64. The Alliance welcomes the Adoption Bill (no 2) 1996 which implements the judgment of the European Court of Human Rights in *Keegan v Ireland*⁶⁴ by providing for consultation with unmarried fathers in the event of the adoption of their children.

65. The Status of Children Act, 1987 removed most of the legal distinctions between children born inside and outside marriage and also removed the term 'illegitimate' from Irish legislation. Despite this very welcome development, there are instances where this discriminatory term is used in the media, causing offence to both children and their parents. The Alliance recommends that the Government alert all sections of the media to the fact that the use of this term is unacceptable.

⁶³ *Report of the Constitution Review Group, op cit*, p 325.

⁶⁴ *Keegan v Ireland*, judgment of 26 May 1994, Series A no 290.

Equal Access to Education

66. Equal access to education by Traveller children has not yet been attained and this is illustrated by the fact that only 20% of those in the 12 to 15 age group attend school. This is possibly due to the lack of relevance of the school curriculum to Traveller children, the lack of special training of teachers in special classes for Traveller children, the difficulty of their being accepted by the settled community and the lack of recognition by Traveller parents of the importance of education for their children.

The Alliance recommends that the problems experienced by children with disabilities and Traveller children in gaining access to education be addressed.

67. The Alliance recommends that the unequal uptake of educational opportunities by Traveller children be addressed. The problem could be approached by improving educational opportunities and ensuring that schools and colleges adopt an intercultural approach which is sensitive to the needs of children from Traveller and settled communities alike. In addition, the recommendations of the *Report of the Task Force on the Travelling Community* in relation to promoting parental involvement in their children's education at all levels should be implemented.⁶⁵

68. Inequality also exists in relation to the access by children with disabilities to education. The Commission on the Status of People with Disabilities identified the following barriers to full participation: an absence of legislation establishing the right to an appropriate education; lack of information for parents and children in relation to decision-making; lack of resources; lack of educational needs assessments, and lack of appropriate curricula to respond to individual needs. The Alliance welcomes the Commission's proposal for an equality strategy for education based on a set of principles which would form the basis of an education charter of rights.⁶⁶

69. The Alliance notes that there is a shortage of places for children with disabilities in mainstream second level schools and this has led to high drop-out rates for children who have completed primary level in mainstream schools.⁶⁷ The Alliance recommends that a greater number of places be made available to accommodate children with disabilities in second level schools in line with a policy of integration.

⁶⁵ *Report of the Task Force on the Travelling Community, op cit*, § 2.3, pp 156-157.

⁶⁶ *A Strategy for Equality, op cit*, pp 172-173, § 11.7-11.8.

⁶⁷ McGee, 'Special Education in Ireland, 5 *European Journal of Special Needs Education* 48-64 (1990).

Health Status of Traveller Children

70. Given the high infant mortality rate in the Travelling Community it is relevant that there is a low uptake of maternal health services, (with less than a third of Traveller mothers attending hospital by the end of the first half of the pregnancy) and a low uptake of infant health services, in particular immunisation and attendance at developmental screening examinations, which are less than 50%. Reports of high levels of sickness and hospitalisation for respiratory and gastric disorders among Traveller children are consistent with poor accommodation and lack of sanitation.⁶⁸ Although some attempts are being made to improve access to health services, examples of good practice need to be generalised in order to make significant impact in these areas.

71. The Alliance finds that the Government should undertake a comprehensive national programme to address the health needs of the Travelling Community. This should include preventive measures, education initiatives, primary health care projects and other innovative measures to ensure that the conditions are created to enable Traveller children to enjoy the same health status as others.⁶⁹

The Alliance believes that the Government should undertake a comprehensive national programme to address the health needs of Traveller children.

Support Services for Children with Disabilities

72. In relation to the Government's statement that 'a range of support services are available to children with a disability',⁷⁰ the Alliance is concerned that significant variations exist in relation to the therapy and other support services available to children with disabilities in different parts of the country. Differences exist between urban and rural areas and those with or without voluntary agency services.⁷¹

73. The Alliance recognises that some research has been carried out by the Government⁷² and in particular, welcomes the publication of the Report of the Commission on the Status of People with Disabilities which sets out many of the concerns in relation to

⁶⁸ *The Report of the Task Force on the Travelling Community, op cit*, pp 132-145.

⁶⁹ See also the recommendations made in *Report of the Task Force on the Travelling Community, op cit*, pp 145-153.

⁷⁰ *The United Nations Convention on the Rights of the Child: First National Report of Ireland* (Dublin: Stationery Office, 1996) § 308, p 58.

⁷¹ Submission by Cerebral Palsy Ireland to the Children's Rights Alliance, 1996.

⁷² See *Towards an Independent Future, op cit*.

children with disabilities.⁷³ The Alliance encourages the Government to implement the recommendations made by the Commission with a view to guaranteeing children with disabilities their rights under the Convention.

Regulation of Residential Services

74. The Child Care Act, 1991 provides for the registration and regulation of residential services for children, but excludes those ‘managed by or on behalf of a Minister of the Government or a health board’ or where ‘children being maintained are being treated for acute illness’ or ‘for the care and maintenance of physically or mentally handicapped children’. The Alliance is concerned about these exclusions. In order to ensure the protection of all children in residential care from abuse, it strongly recommends that the residential services excluded from the Child Care Act, 1991 be brought within the scope of this legislation.

B. Best Interests of the Child (Article 3)

General Implementation of Best Interests Principle

75. The poor co-ordination within and between government and non-governmental sectors is not in the best interests of children.

76. In order to further implement the best interests principle, the Alliance recommends that the Government adopt a co-ordinated approach to work carried out within and between government and non-governmental sectors.

77. Although the Alliance welcomes the fact that the best interests of the child is *the* paramount consideration in all matters concerning children under the Child Care Act, 1991 it is concerned that adequate resources are not being made available to ensure adherence to this principle.

The Alliance recommends that adequate resources be made available to ensure adherence to the best interests principle.

78. In this regard, investment should be based on a systematic and comprehensive assessment of children’s needs. The Alliance urges the Government to make the necessary resources available.

79. There is no mechanism in place which will ensure adherence to the principle of the child’s best interests. The establishment of an Office of Ombudsman for Children could substantially rectify this situation.

⁷³ *A Strategy for Equality, op cit.*

80. In order to ensure that the best interests principle guides all actions and decisions concerning children the Alliance recommends its inclusion in the Constitution.

Residential Care Centres

81. Although the Child Care Act, 1991 provides for registration by the health boards of residential care centres for children, in practice there is no consistent process of inspection in place. The establishment of a Social Services Inspectorate is planned which will have responsibility for some residential services for children. However, it is envisaged that this will be based in the Department of Health which is ultimately responsible for these services. Given the difficulty of any agency being fully independent in its inspection of services for which it has ultimate responsibility, the Alliance believes it to be essential that such an Inspectorate be established on an independent basis.

82. Under the Child Care (Placement of Children in Residential Care) Regulations 1995 responsibility for the development of practices, policies and the monitoring of standards in residential care centres is placed with health boards.⁷⁴ The regulations are welcome (though they unfortunately exclude some services) and they are generally in the child’s best interests. However, the Alliance considers that their lack of specificity means that many issues relating to meeting the needs of children in residential care may be decided arbitrarily. Furthermore, the pressures of competing needs and the existence of different priorities in relation to resource allocation make it difficult to ensure that the best interests of the child remains the paramount consideration in matters relating to residential care.

83. The Alliance recommends that the implementation of regulations governing the standards of care in residential care centres should be carefully monitored to ensure consistent practice.

Day Care Services

84. The Alliance uses ‘day care’ as a broad term encompassing all forms of day-time care outside the family, for example pre-school services, childminders and nurseries.

85. The Pre-School Regulations 1996 implement Part VII of the Child Care Act in relation to the administration of pre-school services.⁷⁵ However, the Alliance is concerned that the standards to be adhered to in the administration of pre-school services are not

⁷⁴ *First National Report of Ireland, op cit*, § 121 and § 217.

⁷⁵ *Ibid*, § 450.

included in the Regulations themselves but in the accompanying *Explanatory Guide to Requirements and Procedures for Notification and Inspection*. The *Explanatory Guide* which aims to offer guidance on interpreting the Regulations does not have any legal status and thus the Regulations themselves may be open to wider interpretation than intended.

86. The Alliance acknowledges that the introduction of regulations and guidelines represents a substantial improvement in this area, but believes that the standards to apply to the administration of day care services should have a legal basis in order to guarantee the rights of children in accordance with Article 3.

The Alliance recommends that a national register of day care services be established in order to implement fully Article 3 § 3.

87. Parents in Ireland seeking alternative day care for very young children (i.e. those under 3 years) traditionally use childminders as opposed to nurseries or pre-school services.⁷⁶ The Alliance is concerned that the Child Care Act exempts childminders caring for one or more pre-school children of the same family, or not more than three children from different families, from the requirement with regard to the notification, inspection and regulation of day care services. The Alliance recommends that this exemption be reviewed.

88. The Alliance recommends that a national register of day care services should be established in order to implement fully Article 3 § 3.

C. Right to Life (Article 6)

Suicide

89. The National Task Force on Suicide is carrying out a national study to establish the incidence and associated factors of suicide.⁷⁷ The interim report was produced in September 1996 and its final report is now at an advanced stage of preparation.⁷⁸

D. Respect for the Views of the Child (Article 12)

90. The Alliance recommends that effective mechanisms (such as an Office of Ombudsman for

Children) be put in place to allow for personal consultation with children and young people in all areas of their lives, and to grant them an avenue of communication and complaint in schools, alternative care and in their access to health, education and other services. Consistent with Article 12 such a mechanism should allow for weight to be attached to the child's view in accordance with age and maturity, with older and more mature young people being entitled to a greater level of consultation.

The Alliance believes that measures should be adopted which ensure, where practicable, the participation of the child in all decision-making processes which concern the child.

91. The Alliance also believes that measures should be adopted which ensure, where practicable, the participation of the child in all decision-making processes which concern the child. Such participation should take place at all administrative and judicial levels, in particular during case conferences and in family court and mediation proceedings.⁷⁹

Care Proceedings and Custody/Access Applications

92. S 20 of the Child Care Act, 1991 allows the court to direct the health board in whose area the child resides to carry out an investigation into the child's circumstances. Thus, there is no mechanism in place to ensure that the views of the child are sought by an independent party when care proceedings are taken by the health board. In relation to custody and access applications, there is no provision for the child's views to be heard as a matter of right. The Alliance recommends that a mechanism be put in place to ensure that the views of children are sought by an independent party in such circumstances.

European Convention on the Exercise of Children's Rights

93. Ireland signed the European Convention on the Exercise of Children's Rights on 25 January 1996; the Alliance urges that this Convention be ratified, and implemented, without delay. This would further the implementation of Article 12 of the UN Convention on the Rights of the Child.

Guardian Ad Litem

94. The appointment of a guardian *ad litem* under the Child Care Act, 1991 is made at the discretion of the court and applies only where the child is not party to

⁷⁶ *The Irish Times*, 14.10.1996.

⁷⁷ *First National Report of Ireland, op cit*, §116.

⁷⁸ Information from Department of Health, April 1997. See *National Task Force on Suicide: Interim Report* (Dublin: Stationery Office, 1996).

⁷⁹ See Law Reform Commission, *Consultation Paper on Family Courts* (Dublin: LRC, 1994), § 7.51 p 152; R. Gilligan and R. Chapman, *Developing Good Practice in the Conduct of Child Protection: Case Conferences* (Southern Health Board, 1997).

the proceedings.⁸⁰ No effort has been made by statutory bodies to ensure good practice in relation to a guardian *ad litem* service. The Alliance recommends that guidelines should be drawn up to ensure consistent and good practice in its administration.

95. The Alliance also recommends the appointment of a guardian *ad litem* during adoption proceedings in order to ensure that the child's interests are adequately represented.

Education

96. The Alliance welcomes the Education Bill, 1997 which provides for parent representation on school and regional education boards. Few schools have mechanisms which allow students to express their opinions on their school and education. However, under the Education Bill, 1997 the regional education board shall in accordance with direction from the Minister consult with, *inter alia*, parents and students.⁸¹ The Alliance recommends that the Minister for Education use this power to set up permanent structures to ensure ongoing consultation with pupils about all aspects of their schooling.

The Alliance recommends that mechanisms be put in place to ensure that the voice of children and young people is heard and respected in schools.

97. Article 42 of the Irish Constitution deals with the right and duty of parents to provide for their children's religious, moral, intellectual, physical and social education. In practice, this means that in second level schools, where the curriculum is subject-based, the right to withdraw a child from religious instruction is vested in parents and no account is taken of the child's evolving capacity or right to be heard.

Youth Participation

98. The principle of youth participation is not sufficiently recognised in the running of organisations in Ireland, such as voluntary or community groups, unions or government agencies used by young people.⁸²

⁸⁰ Submission by N. Gibbons, Barnardo's Adoption Advice Service, to the Children's Rights Alliance, 1996.

⁸¹ s 27 § 3.

⁸² Submission by The National Youth Council of Ireland to the Children's Rights Alliance, 1996.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and Nationality (Article 7)

99. There is an obligation to register the birth of a child but there is no obligation to register the father's name in the case of children born outside of marriage. If a couple decides to register the father's name it is necessary to do so at the Registrar's Office - it cannot be done in hospital. It is unfortunate that these issues were not dealt with during the drafting of the Registration of Births Act, 1996.

100. The Alliance believes that all parents should have the option to register their children either at the hospital where the child is born or at the Registrar's Office.

B. Preservation of Identity (Article 8)

101. Children born outside of marriage have no automatic right to have their paternity established. The Alliance believes that the names of both parents should be entered on the birth register unless there are compelling reasons for not doing so.

102. Adopted children do not have a right to see their original birth certificate. Although the Alliance acknowledges that in certain situations of intercountry adoption, cultural conditions may make this unfeasible, it recommends that in the case of prospective domestic adoption children should enjoy such a right.

103. Adopted children or adults do not enjoy a statutory entitlement to assistance to enable them to obtain information about or to contact their natural parents, despite the need for and desirability of such a service.⁸³ This has raised particular problems where Irish mothers placed their children with adoptive families in the United Kingdom and the United States. In a significant number of cases, both adult adoptees and Irish mothers are now requesting a tracing and reunion service where it is the wish of both adoptees and birth parents to meet.⁸⁴ In this regard the Alliance

⁸³ Barnardo's Adoption Advice Service alone received 1,399 inquiries in 1996. In a survey of their members undertaken by Treoir, 100% of the respondents expressed the need for a contact register. Treoir (Federation of Services for Unmarried Parents and their Children), *Adoption Survey* (Dublin, 1993).

⁸⁴ See also Adoption Review Group (formerly known as the Ad Hoc Group for a Contact System), *Policy Document*, 1997.

welcomes the statement by the Minister of State with special responsibility for children that new laws providing for the rights of adopted people to see their birth records and to contact their natural parents are to be brought forward as a matter of priority by the Government.⁸⁵

The Alliance strongly urges the Government to set up a contact register which maintains accurate and complete records; to provide a tracing service operating responsibly within legal constraints, and to set up a counselling service available to all parties involved.

104. The Alliance strongly urges the Government to set up a contact register which maintains accurate and complete records; to provide a tracing service operating responsibly within legal constraints; to set up a counselling service available to all parties involved, and to train the staff involved in post-adoption work.⁸⁶

105. The Alliance urges the Government to consider seriously the recommendation of the Constitution Review Group on amending the Constitution to make specific provision for the child's right to identity.⁸⁷

C. Access to Appropriate Information (Article 17)

Role of the Media

105. Concern has been raised about the portrayal in the media of certain groups in society, in particular Traveller children and children with disabilities.⁸⁸

106. The Alliance recommends that guidelines be drawn up to ensure the observance of ethical standards in the media in relation to children and their best interests. In addition, it recommends that instead of being portrayed on national television and radio and targeted as consumers, children should be encouraged to become involved in all aspects of the media, in particular at local and regional levels, so as to provide them with the opportunity to experience its benefits and positive aspects.

⁸⁵ *The Irish Times*, 8.4.1997.

⁸⁶ Barnardo's, *Submission to the Department of Health re Running a Contact Register* (October 1993).

⁸⁷ *Report of the Constitution Review Group, op cit*, p 328.

⁸⁸ *Report of the Commission on the Newspaper Industry* (Dublin: Stationery Office, 1996) pp 57-58.

107. The 'watershed' rule which provides for adult programmes to be shown after 9 p.m. prevents children from viewing most of the unsuitable television programmes. However, news programmes often present features which may be disturbing to children without providing parents with the opportunity to decide in advance whether their children are prepared for a particular subject.

108. Serious consideration should be given to the propriety of the content and timing of television commercials aimed at children.

109. The Alliance recommends that a media advertising watch-dog panel including parent, child and other expert representatives be established to monitor the quality of children's television programmes and commercials.

110. In relation to children and the media, the Alliance believes that there is a need to provide parents with the opportunity to avail of assistance on the appropriate protection and development of their children's sensibilities and to encourage them to act responsibly.

111. Although there is evidence of improvement in children's television, the level of educational programming for children on television is poor generally. In particular, there is a lack of indigenous television drama for children and young people.⁸⁹

The Alliance recommends that more emphasis be placed on the positive impact which radio and television can have on the child's development.

112. The Alliance recommends that more emphasis be placed on the positive impact which radio and television can have on the child's development. Youth participation in the making and selection for broadcasting of both radio and television programmes for children should be encouraged. In particular, there is a need for a school broadcasting service and a need to develop the awareness of both teachers and parents as to the positive and negative influences which the media can have on children's development and its use as an educational tool.

Access to Information

113. Voluntary youth organisations currently run about 20 information centres in different parts of the country. The Alliance believes that these centres provide an important point of contact for young people both in rural areas and in disadvantaged urban areas and

it would urge the establishment of more centres (perhaps on a joint voluntary-statutory basis) to provide children and young people with appropriate information and access to expert advice.

The Alliance recommends the establishment of information centres to provide children and young people with access to appropriate information and expert advice.

D. Freedom of Thought, Conscience and Religion (Article 14)

114. The integrated nature of the primary school curriculum, in particular the fact that religious values may be crosscurricular to any subject, means that although it is theoretically possible, it is not always practicable to withdraw a child from religious instruction.⁹⁰ The Alliance is concerned that this may breach Article 14 and notes that it was considered by the Constitution Review Group to be inconsistent with the Irish Constitution.⁹¹ It believes that confining religious instruction to the teaching of the subject of religion would make it easier for pupils to be exempted where this is desired.

115. Although parents have a constitutional right to set up secular or multi-denominational schools, in practice they must provide premises and prove that the school is viable before capital grants will be paid by the State. While religious schools find it less difficult to meet these conditions due to easier access to resources, groups of parents who wish their children to receive a non-denominational education are at a disadvantage.

116. The Alliance believes that there should be a statutory duty on the authorities to carry out a population survey in the area where any new school is being established to identify the religious and other needs of pupils. It welcomes the Education Bill, 1997 which provides for regional education boards to own property which they can lease to private schools. Implementation of this provision should ensure that if such schools cease to operate the property could remain in the educational pool to provide accommodation for a future school.

E. Protection of Privacy (Article 16)

117. The Alliance is concerned that media coverage of events pertaining to the private lives of adults frequently reveals information about children related to, or associated with, these adults in a manner which

⁸⁹ Submission by M Drury, The Ark, A Centre of Culture for Children, to the Children's Rights Alliance, 1996.

⁹⁰ *First National Report of Ireland, op cit*, § 164.

⁹¹ *Report of the Constitution Review Group, op cit*.

shows no acknowledgement of the right of these children to privacy.

118. Although the media are prohibited from publishing the identity of those accused of sexual abuse in case this leads to the identification of the victims, in many instances the media provide such detail about the background and circumstances of the abuse that victims must inevitably fear that their identity will be revealed, particularly in their own locality. The Alliance is of the view that this infringes the child's right to privacy.

119. While minors in conflict with the law are not named in the media it is not uncommon for them to be clearly identifiable by photographs and by other information. The Alliance notes that all children are entitled to have their right to privacy protected.⁹²

120. The *Report of the Commission on the Newspaper Industry* took the view that a violation of the child's right to privacy is acceptable when it is inextricably involved with the justifiable invasion of the privacy of an adult.⁹³ The Alliance believes that this position needs to be considered and discussed given that to date there has been relatively little recognition of the child's independent right to have his or her privacy protected. It is of the strong view that vigilance needs to be exercised in relation to preventing any unjustifiable interference with a child's privacy.

121. In establishing a regulatory mechanism as recommended by the Commission on the Newspaper Industry,⁹⁴ the Alliance believes that the Government should ensure that the privacy rights of children are protected in the reporting of general news items and, more specifically, reporting of allegations of child sexual abuse and subsequent court proceedings.

⁹² *The Sunday Tribune*, 8.12.1996.

⁹³ *Report of the Commission on the Newspaper Industry*, *op cit*, p 56.

⁹⁴ *Ibid*, pp 57-69.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Statistics

122. Despite new obligations being placed on the health boards and the Minister for Health under the Child Care Act, 1991 only sporadic attempts have been made at compiling statistics relating to children in need of care and protection. The figures compiled for 1996 are not yet available and no data were collected for the years 1993, 1994 and 1995. Thus, the most recent figures available relate to 1992. To compound the problem there is widespread lack of confidence in the figures which are available. The failure to analyse the data also raises questions about their usefulness. Data on child abuse are similarly unreliable.⁹⁵

123. The Alliance recommends that a system which compiles and publishes up-to-date, detailed and reliable statistical information on children in need of care and protection, and on child abuse, should be established and maintained. It should be accompanied by effective analysis so as to enable it to influence the development of policy and future planning in this area.

The Alliance recommends that a system which compiles and publishes up-to-date, detailed and reliable statistical information on children in need of care and protection should be established and maintained.

B. Parental Responsibilities (Article 18 § 1 and 2)

124. When custody is contested by the father following separation, the courts in most cases grant custody to the mother.⁹⁶ The Alliance is concerned that the courts attach insufficient importance to fatherhood when making custody and access orders and recommends that more attention be given to the issue.

125. There is no statutory paternity leave in Ireland. However, the Alliance welcomes the fact that Ireland has ratified the European Union Directive on Parental Leave which allows leave to be taken by either parent. The Partnership 2000 Programme⁹⁷ includes a commitment to introduce legislation which gives effect

⁹⁵ Submission by R. Gilligan, Department of Social Studies, Trinity College Dublin, to the Children's Rights Alliance, 1996.

⁹⁶ G. Burke, *Parental Separation and Children's Rights to Access* (unpublished MA thesis, TCD, 1996); Submission by Treoir to the Children's Rights Alliance, 1997.

⁹⁷ *Partnership 2000 for Inclusion, Employment and Competitiveness* (Dublin: Stationery Office, 1996) § 5.10.

to this directive by June 1998. The Alliance urges that at a minimum this deadline be adhered to.

126. Article 41 § 2 of the Constitution of Ireland assigns to women a domestic role as wives and mothers. The Alliance supports the recommendation of the Constitution Review Group that Article 41 § 2 be revised to represent a gender neutral form as it believes that this would reflect the concept of shared parental responsibility set out in Article 18 § 1 of the Convention.⁹⁸

Appropriate Assistance for Parents

127. Health boards provide some family support services, both directly and in association with voluntary agencies.⁹⁹ However, in many areas service provision is patchy and fragmented, particularly in terms of practical, educational or support services at preventive level. There are no agreed criteria concerning the circumstances in which families might be deemed to be entitled to family support services. There are many children within both settled and Travelling communities who are unsupervised, neglected and in need of support services. Support for parents of adolescents is especially weak.

The Alliance recommends that resources be made available for the provision and evaluation of support services, in order to maximise the potential of families to provide safe and nurturing environments for their children and minimise the need to remove children to alternative care.

128. The level and type of service provision offered to families experiencing difficulties differ within and between health board areas and can depend on factors such as the particular priorities set by individual health boards or the existence of local interested voluntary groups. In some instances, assistance and support are not available to those families who have difficulty providing a safe and nurturing environment for their children, and as a consequence the children are taken into care.

129. The Alliance recommends that resources be made available for the provision and evaluation of

⁹⁸ *Report of the Constitution Review Group, op cit*, p 333.

⁹⁹ *First National Report of Ireland, op cit*, § 188.

support services with emphasis being placed on maximising the potential of families to provide safe and nurturing environments for their children and minimising the need to remove children to alternative care.

130. The Alliance believes that policy needs to be developed by the Department of Health (which has responsibility in this area) to include clear criteria regarding the circumstances in which families should receive support services. This policy should be developed in consultation with voluntary as well as statutory agencies. The Alliance also recommends that research be carried out into these services, particularly into the need for and the take-up of such services, and the models of service delivery which are most effective and cost-efficient.

C. Separation from Parents (Article 9)

131. The Alliance is concerned that children who live with one parent (usually the mother) have little contact with the other parent, contrary to that parent's wishes. Further to the problems identified in relation to the implementation of Article 18, the Alliance is concerned that the non-custodial parent may have difficulty in accessing the court remedies available, particularly in rural areas where delays in getting to court may militate against them getting access to their children.¹⁰⁰ The Alliance encourages the Government to look seriously at this question in the context of the rights and the best interests of the child; on a practical level, it recommends that access centres be made available for both supervised and unsupervised access throughout the country in order to ensure that contact between parents and children is facilitated and encouraged where custody lies with one parent.

132. Although the Child Care Act, 1991 requires health boards to facilitate reasonable access to a child in its care,¹⁰¹ due to a lack of resources access may be irregular and inconsistent which can frustrate attempts to maintain personal relations between the child and both parents. Very few access centres are child-centred and good quality visits are often not facilitated. In some areas, the lack of appropriate facilities and personnel makes regular access visits impossible.

133. In relation to children with disabilities living in residential care, these placements are often long distances away from the family home and children in these situations may have limited contact with their families and little or none with their own communities

and neighbourhood friends. This can lead to potentially serious and sometimes irreparable damage to their relationships with their families and communities.¹⁰²

The Alliance recommends that resources be made available to guarantee the child's right to maintain and develop contacts with both parents.

134. The Alliance recommends that the Government make available adequate resources to further the implementation of every child's right to regular access and contact with his or her family and friends.

D. Family Reunification (Article 10)

135. Difficulties have been experienced by the Vietnamese community in Ireland in relation to applying for members of their family to join them in Ireland. The separation of families has caused distress within the community as reunification has only been allowed where those in Ireland can provide proof of being able to support, for a period of five years, those proposing to come to the country. In the light of the recent increase in the number of refugees applying for asylum in Ireland, the Alliance recommends that the Government adopt a policy on family reunification which reflects the provisions and principles of the Convention, in particular Article 10.

The Alliance recommends that the Government adopt a policy on family reunification which will protect the rights of all refugee children.

E. Recovery of Maintenance (Article 27 § 4)

136. The onus for recovery of maintenance for children is placed on the custodial parent, who is usually the mother. Although intervention from the District Court is available on request¹⁰³ groups working with women who have suffered domestic violence argue that the recovery of maintenance should always be the responsibility of the State. This would prevent placing mothers and children at risk in cases where the father is abusive or violent.¹⁰⁴ In any case, although there is an absence of statistics in this area, one survey showed that maintenance payments are often extremely difficult to obtain, with only 13% of maintenance orders being

¹⁰² Submission by Cerebral Palsy Ireland to the Children's Rights Alliance, 1996.

¹⁰³ Maintenance of Spouses and Children Act, 1976, as amended by the Status of Children Act, 1987.

¹⁰⁴ Submission by Women's Aid to the Children's Rights Alliance, 1996.

¹⁰⁰ Submission by Treoir to the Children's Rights Alliance, 1997.

¹⁰¹ *First National Report of Ireland, op cit*, § 192.

fully paid.¹⁰⁵ In addition, because maintenance payments obtained by mothers in receipt of social welfare are taken into account by the Department of Social Welfare in the assessment of entitlement to social welfare payments, such mothers may refuse to disclose the name of the father, leading to a conflict with the child's right to identity.

F. Children Deprived of a Family Environment (Article 20)

Alternative Care

137. The inadequacy of family support services and other factors results in the demand for alternative care placements exceeding the supply. At times, this has led to the inappropriate use of foster care placements, hospital beds, bed and breakfast accommodation (which means that children must leave each morning and do not have trained staff available to cater for their needs) and the frequent moving of children from place to place.¹⁰⁶

138. At the end of 1996, at least 14 Irish children placed in statutory care were in residential facilities in Northern Ireland, the United Kingdom and the United States at an approximate cost of IR£800,000.¹⁰⁷ The Alliance has serious concerns about the impact on a child of placing him or her outside the jurisdiction where the child is no longer in the care of the Irish authorities. In particular, it notes the difficulties which such children may encounter in maintaining contact with their families and repatriating following their return to Ireland. It is concerned that this situation reflects the inadequacy of planning and resourcing of services and facilities for children in need of care and protection in Ireland.

139. The Alliance recommends that resources be made available to ensure that adequate provision be made for children in need of alternative care, both on a temporary and on a permanent basis, having due regard to the child's rights under Article 20 and the Convention as a whole.

140. In practice, there is wide variation in the attention paid to the requirement to have due regard to ensuring continuity in the child's upbringing, in accordance with Article 20 § 3. Children may be placed outside their own communities and may have to change schools on going into care, and in the case of Traveller

children, may be placed with families from the settled community. Often the focus is placed on the need to provide a safe place for the child without having due regard to the child's other needs.

141. The Alliance believes that the current policy and practice with regard to alternative care should be reviewed in the light of the requirements of Article 20 of the Convention.

142. Notwithstanding a recent increase in the foster care allowance, foster carers are increasingly unhappy about how they are treated in terms of support and training and they believe that the State has failed to respond adequately to their concerns despite a clear difficulty in recruiting more foster carers.¹⁰⁸ The Alliance believes that the Government should do so without delay.

The Alliance recommends that resources be made available to ensure that adequate provision is made for children in need of alternative care, both on a temporary and on a permanent basis, having due regard to the child's rights.

143. Although health boards are empowered to provide after-care services for children until they reach 21 years there is no obligation for them to do so.¹⁰⁹ One survey, in 1993, showed that 44% of homeless children encountered had spent some time in residential care.¹¹⁰ More comprehensive research has indicated that 36% of residential care units provided no after-care service at all.¹¹¹ In the light of these findings, the Alliance recommends that the health board's power to provide after-care should be turned into a duty, especially for young people who have spent more than one continuous period in care.

144. The Alliance considers that there is a clear need for research into the experiences of and difficulties faced by children in alternative care. There is also a need to establish a permanent mechanism whereby the views of children in care can be heard. The findings of both processes should be used to inform the development of policy and practice in line with respect for the rights of the child under the Convention.

¹⁰⁵ P. Ward, *Financial Consequences of Marital Breakdown* (Dublin: Combat Poverty Agency, 1990) p 36.

¹⁰⁶ *First National Report of Ireland, op cit*, § 224; Focus Ireland, *op cit*, p 129.

¹⁰⁷ *Irish Independent*, 3.1.1997.

¹⁰⁸ R. Gilligan, 'Ireland', in M.J. Colton and W. Hellincks (eds), *Child Care in the EC: A Country-Specific Guide to Foster and Residential Care, op cit*.

¹⁰⁹ *First National Report of Ireland, op cit*, § 225.

¹¹⁰ Focus on Children, *Blueprint for Action* (Dublin: Focus on Children, 1994).

¹¹¹ Focus Ireland, *op cit*, p 82.

Homeless Children

145. There are up to 5,000 homeless people in Ireland at any one time, almost 10% of whom are children as young as 10 years old.¹¹² Recent research indicates that this figure is increasing and results at least in part from the inadequacy of the care system in addressing the diverse needs of children and young people at risk.¹¹³ Children are also affected by homelessness where they are members of families who become homeless for various reasons and for whom there is inadequate emergency accommodation.

146. There is inadequate provision for homeless children, particularly in the larger urban areas. Children are sometimes accommodated most unsuitably in adult hostels or bed and breakfast establishments. While some health boards operate 24-hour emergency services, the majority do not. As a result, Garda stations are used as places of safety and are often the only contact point for young people seeking access to out-of-hours services.

The Alliance believes that there is a need for a well-researched, well-resourced, and co-ordinated response at a local level to the problem of homelessness among children and young people.

147. It is of concern that in its response to children who are out-of-home, the Eastern Health Board may distinguish between young people who are 'unwilling' or 'unable' to return home, particularly as it can be difficult to distinguish between these feelings when a young person is distressed.¹¹⁴ The Alliance does not believe that this distinction is consistent with the child's rights under Article 20 or Article 2 of the Convention and recommends that its application be discontinued.

148. The Alliance believes that there is a need for a well-researched, well-resourced and co-ordinated response, at local level, to the problem of homelessness among children and young people. This should involve an immediate response to their situation, in terms of emergency residential accommodation and appropriate day care. There is also a need to address the long-term needs of homeless children on a comprehensive level, dealing not only with accommodation needs, but also other needs, such as education, training and health care. Such an approach should show due regard for the child's

best interests as well as respect for the child's views. A mechanism through which the experience and voice of young people out-of-home can feed into and influence the development of policy and practice should be established.

The Alliance recommends that consideration be given to instituting a complete review of the adoption process.

G. Adoption (Article 21)

149. Delays of more than two years are experienced in contested adoption proceedings.¹¹⁵ The Alliance believes that this is not in the child's best interests and that efforts should be made to reduce the delays, which in part arise from the fact that there is no statutory limit placed on the time allowed to contact absent mothers and fathers for their consent.

150. Considering that Irish adoption laws and procedures are based largely on the provisions of the Adoption Act, 1952,¹¹⁶ the Alliance recommends that consideration be given to instituting a complete review of the adoption process.

151. In relation to intercountry adoption there is a scarcity of post-assessment and post-placement support for families, with parents and children experiencing significant difficulties in gaining access to these services. This has the effect of leaving families on their own for the most vulnerable stage of the adoption process, i.e. matching the needs of the child to the strengths and needs of the family.¹¹⁷

152. After a family or couple have been approved by a health board for intercountry adoption, no record is kept of the child or children brought to Ireland from another country for the purposes of adoption. In practice, once a family is found suitable by the health board, it is possible for them to return from a donor country with two or three children. Neither the immigration authorities nor the Department of Health maintain records. Furthermore, there is no system to ensure that ongoing contact takes place between the health board and the family following the adoption.

153. The Alliance believes that there is a need for a central agency to oversee the practice of intercountry

¹¹² Focus Point Fact Sheet, 1995.

¹¹³ Submission by Focus Ireland to the Children's Rights Alliance, 1996.

¹¹⁴ Eastern Health Board, *Review of Adequacy of Child Care and Family Support Services in 1994* (Dublin: Eastern Health Board, 1995) pp 105-111.

¹¹⁵ Submission by N. Gibbons, Barnardo's Adoption Advice Service, to the Children's Rights Alliance, 1996.

¹¹⁶ Adoption Review Group, *op cit*.

¹¹⁷ Submission by N. Gibbons, Barnardo's Adoption Advice Service, to the Children's Rights Alliance, on the implementation of the Hague Convention on Intercountry Adoption, 1996.

adoption in Ireland. Such an agency should set standards in relation to assessment of prospective intercountry adopters; train those providing this service; register the workers involved in the process; approve couples and families for intercountry placement, and provide up-to-date information for interested families on intercountry adoption and the requirements of various countries.

154. The Law Reform Commission is examining the implications for Ireland of ratifying the Hague Convention on Intercountry Adoption. Its report is due in 1997.

H. Abuse and Neglect (Article 19) including Physical and Psychological Recovery and Social Reintegration (Article 39)

155. There is an urgent need to update the 1987 Child Abuse Guidelines.¹¹⁸ Individual health boards have begun to produce their own updated version of the Guidelines and this and other factors may lead to anomalies and discrepancies in response to abuse situations in different parts of the country. Furthermore, the Guidelines produced by the Department of Education on procedures within the school system for dealing with allegations or suspicions of child abuse¹¹⁹ are not adequately calibrated with the Department of Health Guidelines.

156. Most of the special units for investigation and management of cases of child sexual abuse to which the *First National Report of Ireland* refers¹²⁰ focus only on initial issues of trying to ascertain whether allegations can be validated. There are clear gaps in the provision of treatment and support for all those involved in situations of abuse.¹²¹

157. There is a general neglect of the broader issues involved in child sexual abuse as indicated by the small number of treatment programmes for offenders. A grant of IR£10,000 is to be made available to evaluate one programme for offenders, which is welcome. The Alliance believes that the provision of an adequate range of therapeutic facilities for offenders is an important means of preventing abuse and protecting children. It urges that following an evaluation of this programme further resources be allocated to facilitate the development of programmes elsewhere.

¹¹⁸ *First National Report of Ireland, op cit*, § 270.

¹¹⁹ *Ibid*, § 273.

¹²⁰ *Ibid*, § 274.

¹²¹ Submission by R. Gilligan to Children's Rights Alliance, 1996.

158. There is a need to review and tighten mechanisms for communication and collaboration between Gardaí (police) and health boards in child abuse cases. Gardaí (police) need specific facilities, organisational arrangements and skills training in interviewing victims of child abuse. The Alliance welcomes the introduction in 1995 of a procedure for the notification of suspected cases of child abuse between health boards and Gardaí (police). The Alliance also recognises the significance of the establishment in 1993 of the Domestic Violence and Sexual Assault Investigation Unit in Dublin. However, while there is evidence of progressive and positive practice in relation to the treatment of victims of abuse, there is a need to ensure that the response to child victims is uniformly sympathetic and supportive.

159. The *First National Report of Ireland*¹²² sets out the procedure for checking if applicants for positions in the health service involving access to children have a criminal conviction for abuse of children. The Alliance believes that these arrangements should apply to both existing and prospective staff and volunteers working with children in any setting.

The Alliance believes that procedures for checking for convictions for child abuse should apply to both existing and prospective staff and volunteers working with children in any setting.

160. Research has found that 18% of Irish women have been threatened by physical violence.¹²³ More than 50% of women who have experienced physical abuse say that their children have witnessed this abuse. Despite this evidence, there is no comprehensive strategy to protect children from domestic violence. The provision of refuges and support services for women and children who are the victims of domestic violence is inadequate. A total of 316 children and their mothers passed through one Dublin refuge for victims of domestic violence in 1995.¹²⁴ Ten of the twelve refuges in the country do not have child care staff.¹²⁵ The Alliance does not believe that the placement of child victims of domestic violence in bed and breakfast or hostel accommodation is conducive to their physical and mental well being.

¹²² *First National Report of Ireland, op cit*, § 280.

¹²³ Women's Aid, *Making the Links: Towards an Integrated Strategy for the Elimination of Violence against Women in Intimate Relationships with Men* (Dublin: Women's Aid, 1995).

¹²⁴ Focus Point Factsheet 1995; Eastern Health Board Report, 1996.

¹²⁵ Women's Aid, *op cit*.

161. It is submitted that the psychological recovery and social reintegration of children damaged by witnessing domestic violence is severely hindered by an acute shortage of appropriate services. The Alliance welcomes the *Task Force Report on Violence against Women*¹²⁶ and urges the Government to provide the resources to enable the implementation of its recommendations so as to address the serious issues identified above.

162. There is concern that many young children have unrestricted access to sexually explicit, violent films and other wholly inappropriate material in Ireland. Although some parents may be unaware of their children's viewing, in some instances it can be part of an abusive situation. There is also clinical evidence that some children videotape pornography from satellite television stations and then sell it to other children in school. This material has a damaging impact on children and also leads to desensitisation.¹²⁷

163. Given these concerns, the Alliance believes that broadcasting guidelines should be reviewed in the light of the principles and provisions of the Convention. It suggests that a panel should be set up with representatives of all interested and experienced groups to monitor the appropriateness of television and radio broadcasts for children and to offer guidance to parents in this regard.

The Alliance suggests that a panel should be set up with representatives of all interested and experienced groups to monitor the appropriateness of television and radio broadcasts for children.

164. Under Irish law, children may be physically punished by parents and those *in loco parentis*, provided this punishment can be considered as 'reasonable chastisement'. In a 1994 report, the Law Reform Commission reviewed this issue and concluded that 'whereas it would be premature to abolish the common law chastisement exception immediately, the re-education of parents should proceed without delay and the exception should be abolished without delay.'¹²⁸ The Alliance is firmly against the physical punishment of children by parents and others. In addition, it believes that the Government must provide leadership through the resourcing of family support and parent education programmes aimed at discouraging parents from slapping children and providing them with

alternative ways of communicating with them. Following the evaluation of such programmes, the common law chastisement exception should be abolished.

165. The Alliance welcomes the statement in the *First National Report* that legislation is being prepared to ratify the UN Convention against Torture.¹²⁹ Groups working with refugees who have experienced torture believe that there is a lack of understanding of the kind of treatment and rehabilitation which its victims need. The Government points to the fact that refugees have the same access to health services as Irish children. However, many of these children have arrived severely traumatised from countries such as Bosnia following experiences of violence, abuse and torture and are in need of specialised psychological treatment and assistance as well as access to general services.

166. The Alliance believes that consideration should be given to providing adequate statutory support for voluntary sector initiatives which provide special facilities for the treatment of victims of torture and other abuse, in particular refugees.

I. Periodic Review of Placement (Article 25)

167. The Child Care (Placement of Children in Residential Care) Regulations 1995¹³⁰ specify the minimum intervals at which visits and reviews must take place and include provision for children who are frequently admitted to care who might otherwise not have the benefit of reviews. The Alliance considers these measures to be positive and in the best interests of the child. However, the Regulations do not explicitly require the review to be held in the form of a meeting and it would appear that an administrative glance at a file would satisfy the review element as set out in the Regulations.

168. The Alliance believes that the review procedure should be strengthened to reflect the requirements of Article 25 of the Convention; to ensure that the views of children and other interested parties are considered, and to ensure that each review is carried out in a manner consistent with the child's best interests.

¹²⁶ *Task Force Report on Violence against Women* (Dublin: Stationery Office, 1997)

¹²⁷ N. Healy and M. Murray, *Survey of Adolescent Viewing*, 1996.

¹²⁸ Law Reform Commission, *Report on Non-Fatal Offences Against the Person* (Dublin: LRC, 1994).

¹²⁹ *First National Report of Ireland*, *op cit*, § 173.

¹³⁰ *Ibid*, § 121 and 291.

VI. BASIC HEALTH AND WELFARE

A. Children with Disabilities (Article 23)

169. The Alliance is of the view that support services, therapies, assessment and development services must be provided for many children with disabilities to enable them to reach their full potential and thus facilitate them living full lives. In Ireland, such supports are usually centre-based and located in urban areas, which result in access being difficult for those children living in rural areas. The Alliance supports the recommendation made by the Review Group on Health and Personal Social Services for People with Physical and Sensory Disabilities that regional co-ordinating committees should be established¹³¹ and that each health board, in consultation with this committee, should agree a strategy for developing services and providing support, information and counselling to families of children with disabilities.¹³²

170. The Alliance also recommends that more flexible systems of providing necessary supports and services should be developed to ensure that they will be accessible to all children, regardless of where they live.

The Alliance is of the view that support services, therapies, assessment and development services must be provided for many children with disabilities to facilitate them living full lives.

171. There are long waiting lists for assessments and there is an absence of services designed to cater for needs specifically identified. The Commission on the Status of People with Disabilities has recognised these difficulties and recommended *inter alia* that additional revenue funding be made available to address current shortfalls in therapy, counselling, respite and residential care.¹³³ This recommendation is supported by the Alliance.

172. Transport is a major problem for children with disabilities generally. In particular, the standard of transport to and from special schools is often inadequate. Most public transport is inaccessible to wheelchair users and the visually impaired. The pilot

project of using wheelchair accessible vehicles on a fixed route linking buses to the national railway network is no longer in operation.¹³⁴ The national rail network is only accessible for those in wheelchairs by special arrangement and not all of the suburban rail network stations are accessible by wheelchair. In many cases, children with physical and multiple disabilities must still be lifted on and off buses by parents and staff, while school buses do not have appropriate lifts.¹³⁵ This can be dangerous and does not respect the right of the child with a disability to be treated with dignity.

In order to ensure that easy, dignified and safe transport is a right enjoyed by all children, resources must be made available to make public and school transport systems accessible to children with disabilities.

173. The Alliance welcomes the recommendations made by the Commission on the Status of People with Disabilities in relation to transport and encourages the review of the school transport service.¹³⁶ In particular, the Alliance recommends that school transport for children with physical and multiple disabilities should be adapted to provide appropriate lifts and safety fittings. Easy, dignified and safe transport to school should be a right enjoyed by all children with disabilities and should not operate merely on a project basis. On a broader scale, resources must be made available to make public transport systems accessible to children with disabilities.

174. The Alliance notes the Supreme Court decision in *O'Donoghue v AG* in which it was acknowledged that a young boy with profound mental disabilities is educable and that he has a constitutional right to free primary education.¹³⁷ While welcoming the Court's acknowledgement that children with severe disabilities have the right to education, the Alliance believes that there is a need to clarify the extent of this right and the corresponding obligations of the State.

¹³⁴ *First National Report of Ireland, op cit*, § 332.

¹³⁵ Submission by Cerebral Palsy Ireland to the Children's Rights Alliance, 1996. This has also been recognised as a serious problem by the Commission on the Status of People with Disabilities in *A Strategy for Equality, op cit*, p 178, § 11.32.

¹³⁶ *A Strategy for Equality, op cit*, p 178, § 11.33.

¹³⁷ *The Irish Times*, 7.2.1997.

¹³¹ *Towards an Independent Future, op cit*, § 8.4.2.

¹³² *Ibid*, § 4.2.7.

¹³³ *A Strategy for Equality, op cit*, p 165, § 10.23.

175. In spite of the fact that there has been a considerable expansion of respite care services¹³⁸ significantly more services need to be established to meet needs. Specific problems are experienced by children with physical difficulties living at home. Although no large-scale research has been carried out in this area, in a recent survey of 33 families who have a child with a physical disability, it was found that in 14 of these families parents had never been away from home without their child; 12 children had never been away from home without their parents and in 20 of these families the parents had never spent any time (other than school-time) away from their child although the majority of them would like the opportunity to do so.¹³⁹

176. The Alliance recommends that respite models which have been shown to be appropriate for young children, for example, in-home support schemes and host family schemes, should be developed.¹⁴⁰ A number of respite programmes exist, but operate on a project basis with no permanent funding. Moreover, where residential respite services are appropriate for older children they should be developed and provided in centres and environments which are appropriate for children. For example, it is unacceptable that the only respite available to a 16-year-old with cerebral palsy is a ward in a home for elderly men with disabilities.

177. The Alliance believes that groups which at present have little or no access to respite care (for example, children with physical and sensory disabilities) should be given priority for respite service development.

178. The Alliance recommends that an individual service plan should be developed for each child with a disability in consultation with the child and his or her family. The service plan should be reviewed at regular intervals. It has been suggested that regional child assessment teams for disability be established in each health board area.¹⁴¹ This approach would be likely to ensure that the services being provided would meet the individual child's needs.

Access to Education

179. Despite an official policy of encouraging integration,¹⁴² the reality is that segregated education is the only option for many children. Specialised

segregated schools are better equipped to provide support for children with disabilities and can provide this support more easily and less expensively. However, the absence of appropriate facilities in mainstream schools seriously reduces the element of choice which parents have in relation to the education of their child who has a disability.

To implement the Government's policy of encouraging integration, the Alliance believes that children with disabilities should have access to specialised help in integrated settings as a matter of right on an individual and local basis.

180. To implement the Government's policy of encouraging integration, the Alliance believes that children with disabilities should have access to specialised help in integrated settings as a matter of right on an individual and local basis. The Alliance also believes that it is necessary to establish a continuum of services to match the continuum of special needs based on the assessed needs of the pupil, the range of services available, professional advice and the preference of parents.¹⁴³

181. The Alliance is of the strong view that no child should have to attend a residential school in order to receive an education. Such a decision should be based on the child's best interests, having particular regard to the child's right to maintain contact with his or her family and friends.¹⁴⁴

182. The Alliance also recommends that specialised equipment used by children with physical and sensory disabilities or difficulties should be made available in the integrated educational setting by the Department of Education. Other items, such as communication, education, mobility and other aids, which are essential in order to open up learning opportunities for children with disabilities, should be subsidised or provided free of charge (as they are in other European countries), depending on the child's individual needs.¹⁴⁵

B. Health and Health Services (Article 24)

183. All children are entitled to avail of public hospital services on a minimum or no-cost basis. However, there are substantial waiting lists in the public hospital system for both out-patient appointments and

¹³⁸ *First National Report of Ireland, op cit*, § 309.

¹³⁹ Submission by Cerebral Palsy Ireland.

¹⁴⁰ *Towards an Independent Future, op cit*, § 6.2.6.

¹⁴¹ This recommendation has been made in *Towards an Independent Future, op cit*, § 4.2.16.

¹⁴² *First National Report of Ireland, op cit*, § 321-322.

¹⁴³ See *Report of the Special Education Review Committee* (Dublin: Department of Education, 1993) p 22.

¹⁴⁴ See *Towards an Independent Future, op cit*, § 6.3.15 and 6.3.16.

¹⁴⁵ *Ibid*, § 5.5.6, 5.5.7 and 5.5.9.

non-urgent in-patient admissions, especially for specific procedures. The *First National Report of Ireland* indicates that at the end of 1994 there were 1,449 children on hospital waiting lists in the country as a whole.¹⁴⁶ However, at the end of 1996 as many as 1,242 children were waiting to have in-patient procedures carried out at two of the three public children's hospitals in Dublin, with the waiting times for these two hospitals exceeding six months.¹⁴⁷ There is considerable disparity between the speed of access to services for children dependent on the public hospital system - the majority - and those whose parents can afford private health care insurance.

184. Families on low income are entitled to a medical card, which gives access to General Practitioner (GP) services, and to medicines, free of charge. However, the cut-off for entitlement to a medical card is not graduated, with the result that families on modest incomes, just above the cut-off point, are liable to the full cost of GP services and medicines. These could represent a considerable allocation from a modest family income, and could deter families from seeking medical attention.

185. A fundamental problem in the health care system is that there are no specific written comprehensive standards or guidelines relating to the provision of health services for children and adolescents. As a result, there is no way to measure the consistency, efficacy and suitability of the services available.

186. The Alliance recommends that guidelines be drawn up which guarantee the rights of children in relation to health and related services and which set down the standards of treatment to which they are entitled. The guidelines should be designed and implemented in such a manner as to ensure that:

- all children and young people receiving hospital care are treated in facilities appropriate to their age;
- they receive nursing care from paediatrically trained staff;
- they are enabled to have a parent or carer with them;
- suitable professional therapeutic and recreational play and adequate educational facilities are provided for children in hospital;

- children and young people have a right to age-appropriate information when receiving medical care;
- the right of children to be consulted in matters affecting them is respected;
- the right of the child to privacy is recognised;
- children and young people are protected against serving as research subjects;
- the right of the child to refuse care or examinations not primarily for a therapeutic purpose is fully respected.¹⁴⁸

The Alliance recommends that guidelines be drawn up which guarantee the rights of children in relation to health and related services and which set down the standards of treatment to which they are entitled.

187. A 1993 review found wide variations throughout the country in the frequency with which school medical examinations are carried out, and indications of quite limited coverage of schools in some areas.¹⁴⁹ Given the potential value of the school medical examination service, and the inconsistencies in its implementation, there is clearly a need for a thorough review of the system in the light of current needs and demands.

188. The Alliance notes that children from the Travelling Community experience particular health problems. There is a higher rate of infant mortality among the Travelling Community compared to the rest of the population; a higher ratio of metabolic disorders and congenital problems, and a higher incidence of illnesses associated with poor living conditions, such as respiratory and gastric disorders. Because of the high mobility of the Travelling Community and the high percentage of them forced to live along the roadside or on unofficial sites, they may also experience particular difficulties in availing of the health services to which they are entitled.¹⁵⁰ Given both the poor health status of Travelling People and their unique problems in gaining access to services, it is essential that their particular health needs be addressed comprehensively and as a matter of priority.

189. The Alliance suggests that the recommendations of the Task Force on the Travelling

¹⁴⁸ Association for the Welfare of Children in Hospital (Ireland), *The Charter for Children in Hospital* (1973); *Guidelines for the Welfare of Children in Hospital* (1990); *Guidelines for the Care of Adolescents in Hospital* (1995).

¹⁴⁹ *Report of the Special Education Review Committee, op cit.*

¹⁵⁰ *Report of the Task Force on the Travelling Community, op cit,* pp 135-143.

¹⁴⁶ *First National Report of Ireland, op cit,* § 351.

¹⁴⁷ Department of Health, *Public In-patient Waiting List and Waiting Times for Target Specialties by Hospital at 31 December 1996* (Dublin: Department of Health, 1997).

Community regarding the establishment of a Traveller Health Unit in each health board area and the provision of primary care services to Travellers on an out-reach basis, should be implemented without delay.¹⁵¹ A mobile health clinic which operates in the Eastern Health Board region visiting some Traveller sites has proved to be a useful model which could be replicated. In 1994, the National Health Strategy, *Shaping a Healthier Future*, indicated that a comprehensive policy to respond to the particular health service needs of the Travelling Community would be developed. It is anticipated that this will be published before the end of 1997, and that in addition a Travellers Health Advisory Committee will be established. The Alliance trusts that these positive developments will signal the coming into being of services and practices that will more effectively meet the urgent health care needs of the Travelling Community.

The Alliance believes that it is essential that the particular health needs of Traveller children be addressed comprehensively and as a matter of priority.

Health Promotion

190. There are a number of successful parent education programmes operating in different parts of the country. However, there is no system in place to evaluate the need for such programmes and to ensure that those who could benefit from access to them do so. The Alliance recommends that the evaluation, extension and co-ordination of parent education programmes should be undertaken and that examples of good practice in this area should be generalised. This should be done in co-ordination with the recommendations regarding family support services.¹⁵²

191. Given the relatively low incidence of breastfeeding - it has been estimated that only 15% of mothers are breastfeeding three months after the birth of their baby - considerable commitment as well as co-operation between different elements of the health service and between statutory and voluntary groups are necessary if the National Breastfeeding Policy for Ireland, published in 1994, is to be effective.¹⁵³ Noting that breastfeeding is recognised as being uniquely suited to meeting both the physical and emotional needs of babies, the Alliance recommends that the National Breastfeeding Policy be actively implemented and that Ireland participate in the Baby Friendly Hospital Initiative (WHO and UNICEF 1991).

¹⁵¹ *Ibid*, p 146.

¹⁵² See Section V above on Family Environment and Alternative Care.

¹⁵³ Submission by La Leche League of Ireland to the Children's Rights Alliance, 1996.

The Alliance recommends that the National Breastfeeding Policy be actively implemented and that Ireland participate in the Baby Friendly Hospital Initiative.

192. A small number of Irish schools are currently participating in the joint Council of Europe, World Health Organisation (Europe), and European Commission initiative, the European Network of Health Promoting Schools.¹⁵⁴ The initiative has health (in its broad meaning) as its focus and it is a collaborative partnership between children, parents, teachers and the community which covers issues such as the promotion of children's self-esteem, health-related issues, school atmosphere, etc. The Alliance supports this initiative and encourages its application on a nationwide basis.

C. Social Security and Child Care Services and Facilities (Article 26 and 18 § 3) and Standard of Living (Article 27 § 1-3)

Social Security

193. Ireland has a comprehensive range of social security benefits, covering all household types. Related to Ireland's high rate of unemployment, and the incidence of lone parenthood, there is a high level of dependence on social security payments. One-third of all children in the country live in families which rely for their income on such payments.

194. The Commission on Social Welfare, a government-appointed body which carried out a complete review of the social security system and reported in 1986, identified adequacy as a key principle for the development of the system. It agreed that to be adequate, social security payments must prevent poverty, that is, exclusion from ordinary participation in society. The Commission recommended what it termed 'minimally adequate rates of payment' for social security benefits. A recent study commissioned by the Department of Social Welfare,¹⁵⁵ recalculated the Commission's recommended rates in 1996 terms, taking account of increases in the consumer price index. Relating current rates of payment to the recalculated 'minimally adequate rates', the study found that most payments do not reach even the lower end of the recommended range. Thus even though there has been a steady improvement in Irish social security payments in the past decade, further commitment of resources will be required if these are to be brought up to a level adequate to prevent poverty.

¹⁵⁴ *The European Network of Health Promoting Schools* (Copenhagen: European Network of Health Promoting Schools).

¹⁵⁵ T. Callan et al, *A Review of the Commission on Social Welfare's Minimum Adequate Income* (Dublin: ESRI, 1996).

195. Families dependent on social security payments receive additional allowances in respect of children - Child Dependant Allowances - which, along with Child Benefit, a universal payment, are intended to meet the cost of maintaining their children. It has been shown, however, that the combined value of these payments falls far short of the estimated cost of rearing a child at even a basic standard of living.¹⁵⁶

196. The *First National Report of Ireland* notes that the Government had signalled its intention to provide a new type of child income support, through the creation of a Child Benefit Supplement.¹⁵⁷ This would be payable in addition to Child Benefit to all families with an income below a certain level, regardless of whether that income was derived from social welfare, employment or a combination of both. The proposed supplement would incorporate two existing payments - Child Dependant Allowances and the Family Income Supplement. However, the current national agreement, Partnership 2000, appears to suggest some move away from this commitment. It notes significant increases in Child Benefit payments in both the 1995 and 1996 budgets 'in the context of a strategy to move towards a more integrated child income support system'. It adds, 'it is recognised that there are very substantial costs involved in moving towards a more universal system of income support for children . . .' and goes on to state that the reform of Family Income Supplement would be given priority.¹⁵⁸ The Alliance suggests that the Government needs to clarify its approach to the development of Child Support payments. Given the vital importance of these in addressing family poverty and the complex issues relating to employment incentives which can arise from their operation, consideration should be given to the issuing of a policy discussion paper setting out the various possible options and inviting submissions.

197. Young people who leave school at sixteen and fail to find employment are not entitled to unemployment assistance (a means-tested payment). They are thus financially dependent on their parents who may themselves have limited financial resources and who do not receive Child Benefit in respect of them. The Alliance suggests that there should be a review of income maintenance policy in relation to young people who are unemployed, which would bear in mind the need to encourage such young people to avail of training opportunities. A review should take into account the views of young people themselves and of youth representative bodies.

¹⁵⁶ C. Carney et al, *The Cost of a Child* (Dublin: Combat Poverty Agency, 1994).

¹⁵⁷ *First National Report of Ireland*, *op cit*, § 420.

¹⁵⁸ *Partnership 2000 for Inclusion, Employment and Competitiveness*, *op cit*, § 4.18-4.19.

Further commitment of resources to the social security system is required if child poverty is to be prevented.

Child Care Services and Facilities

198. In Ireland, day care services for the children of parents who are working are provided by private individuals and by community groups on a voluntary or low-paid basis. The lack of adequate statutory support for day care services has been identified as a major barrier to tackling long-term unemployment and the consequent conditions of poverty in which many families with children live. In 1995, the Department of Equality and Law Reform piloted a 'Child care Initiative' which provided £1.5 million for capital costs of day care facilities divided between groups throughout the country. This was reduced to £0.5 million for the year 1996. This initiative is being re-evaluated. The Alliance recommends the continuation and expansion of this project which would benefit working mothers, children and the community in general. The Department of Health has drawn up regulations and guidelines relating to the inspection of day care centres in consultation with NGOs, including the Alliance.

199. The Alliance welcomes that the Commission on the Family is carrying out a survey of child care arrangements being used by families in Ireland and hopes that the findings of this research will be used to provide services on the basis of need.¹⁵⁹

Right to an Adequate Standard of Living

200. The results of a major survey on the incidence of poverty carried out in 1994 highlight a disproportionate incidence of poverty in households with children. For each of the three poverty lines used in the study, the risk of poverty for children was higher than that for adults. Furthermore, while some specific types of households with children had experienced a decline in their risk of poverty in the period since a comparable study in 1987 (households with two adults and one or two children), in general, households with children faced a higher risk of being in poverty in 1994.¹⁶⁰

201. The most significant cause of poverty in households with children was unemployment - as was the case in 1987. Despite recent falls in unemployment, Ireland continues to have a significantly high level of joblessness and a rate of long-term unemployment that is the highest in Europe.

¹⁵⁹ Commission on the Family, *op cit*, p 40.

¹⁶⁰ Callan et al, *Poverty in the 1990s: Evidence from the 1994 Living in Ireland Survey* (Dublin: Oak Tree Press, 1996) Tables 5.1, 5.2, 5.3 and 5.4, pp 88-92.

202. In addition to the overall incidence of poverty, there are particular problems arising from the concentration of deprivation in specific areas and communities. The National Anti-Poverty Strategy highlighted three types of spatially-defined disadvantages: inner city communities, large suburban public housing estates, and marginalised rural communities. It noted that such communities experienced high levels of long-term unemployment and under-employment; low income levels; weak local economy; poor physical environment; lack of amenities and social facilities, and a sense of isolation and marginalisation from the rest of society.¹⁶¹ For children growing up in such areas, the quality of their lives and their prospects for the future are affected not just by their own family circumstances but by the deprived environment of their communities.

203. The Alliance considers that the high risk of poverty in households with children, and the significance of unemployment as a cause, are issues which should be a priority among national concerns. As the *National Anti-Poverty Strategy* points out: 'Poor children have been shown to do less well educationally, are more likely to suffer ill health, are vulnerable to homelessness and delinquent behaviour and have fewer opportunities in life. Child poverty can seriously damage the life chances of many children, leading to a cycle of deprivation which repeats itself from generation to generation'.¹⁶²

204. The publication of the *National Anti-Poverty Strategy* is a significant development, signalling a commitment to comprehensive and sustained measures to address not only the immediate effects of poverty but the structural causes of it. The Strategy is particularly important at this time, when, as the Government leaders acknowledge in the Foreword to the document, Ireland's current unprecedented economic growth carries a risk of increasing divergence in the incomes and expectations of the better off and the marginalised. The Alliance welcomes the commitment to establish institutional structures, at both political and administrative levels, to ensure the implementation of the Strategy and also the processes proposed to monitor and evaluate it. Given the research evidence of the particular vulnerability of children to poverty, a key indicator of how successful the Strategy proves to be will be its effectiveness in addressing this dimension of poverty.

205. The Alliance believes that as a general rule social policies should focus on improving the position of families with children. The Commission on the

Family is currently looking at how recent economic and social change has affected the family and it has already identified a need for a co-ordinated and explicit Government policy in relation to families.¹⁶³ The Alliance looks forward to the Commission's findings and recommendations.

The Alliance believes that as a general rule social policies should focus on improving the position of families with children.

206. The *Report of the Task Force on the Travelling Community*¹⁶⁴ acknowledged that a minority of Traveller children engage in begging on city streets. The Report found that while an adult might accompany an infant, sometimes the older children are unaccompanied.¹⁶⁵ They are out on the streets for hours regardless of weather conditions, and are frequently subjected to verbal abuse. The Alliance supports the recommendations of the Task Force on the Travelling Community in relation to the issue of begging, which call on the statutory authorities to provide immediate care for the children involved and more long-term supportive services for their families.¹⁶⁶

207. Nearly half of all Traveller families have no authorised sites, meaning insecurity, frequent evictions, distressingly harsh living conditions, and a difficulty in accessing social, educational and health services.¹⁶⁷ The Government has made a public commitment to the provision of accommodation for all Traveller families by the year 2000. Some significant developments towards achieving this objective have already taken place, in particular the establishment of a Traveller Accommodation Unit in the Department of the Environment. The provision of appropriate and adequate accommodation for all Traveller families is essential to safeguard the health and well-being of Traveller children. However, in order for the target set by the Government to be achieved, this needs to become a priority of public policy.

¹⁶³ Commission on the Family, *op cit*, pp 12-13.

¹⁶⁴ *First National Report of Ireland*, *op cit*, § 610-615.

¹⁶⁵ *Report of the Task Force on the Travelling Community*, *op cit*, pp 151-152.

¹⁶⁶ *Ibid*.

¹⁶⁷ *Ibid*, p 55.

¹⁶¹ *National Anti-Poverty Strategy: Sharing in Progress* (Dublin: Stationery Office, 1997) pp 75-76.

¹⁶² *Ibid*, p.47.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including Vocational Training and Guidance (Article 28) and Aims of Education (Article 29)

208. The Alliance welcomes the Education Bill, 1997 which makes legal provision for the rights and entitlements of children and parents in the education system. The Government is strongly urged to ensure that the child's rights, particularly those set out in Articles 12, 28 and 29 of the Convention, are guaranteed.

209. Although primary education is free in theory, one survey showed that in 30% of schools, parents contribute 10% to school funds, and in 12% of schools (20% of Dublin schools) they contribute as much as 50%.¹⁶⁸

210. In relation to providing assistance to low income families with educational costs, programmes such as the clothing and footwear scheme, the school book scheme and school meals¹⁶⁹ are inadequate, with one survey finding that the payment levels represented between a quarter and a half of the real costs for these items for low income families.¹⁷⁰

The Government is strongly encouraged to ensure that the rights of the child, particularly those set out in Articles 12, 28 and 29 of the Convention, are guaranteed in the educational system.

211. The Alliance recommends that the contribution which currently must be provided by the local community for running costs of schools and capital buildings should be abolished so that all capital funding and all running costs are provided to schools by the Department of Education. Additional funding should be made available to schools to provide the support services required by all pupils in their school.

212. The issuing of guidelines on bullying in 1993¹⁷¹ was a positive step in attempting to assist teachers and

parents in situations where bullying arises. However, there is a need to assess the effectiveness of the guidelines in preventing and dealing with bullying. The Alliance recommends that this takes place as soon as possible so as to safeguard the well-being of children in school and to ensure the enjoyment by all children of their right to education.

All children should have access to the support services which they require, such as psychological services, speech therapy, physiotherapy, specialised teaching and specialised equipment.

Access to School Support Services

213. Not all children have access to the support services which they require, such as psychological services, speech therapy, physiotherapy, specialised teaching and specialised equipment. One study showed that 36% of children in primary schools do not have access to the services of a remedial teacher. The vast majority of these are in small schools, most of which are situated in rural areas.¹⁷²

214. Only 20 psychologists are employed in second level education which means that there is only one psychologist for every 18,000 students. At primary level, the School Psychological Service covers a number of areas namely North-West Dublin, Cork City, Limerick City and South Tipperary. Priority is given to schools designated as disadvantaged or in disadvantaged areas and 13 psychologists are currently providing this service.¹⁷³ 80% of primary school children have no access to an educational psychologist and this often means that children with difficulties are not identified early enough and as their problems develop they become demotivated and demoralised.¹⁷⁴ Some of these children are lost to the system by the time they reach post primary school age.

215. The School Psychological Service should be extended so that it is accessible to all children who require such a service. All schools should have access to a remedial teaching service and to a resource

¹⁶⁸ National Parents Council (Primary), *The Cost of Free Education - Survey on the Cost to Parents of Free Education in Ireland* (Dublin: NPCP, 1990).

¹⁶⁹ *First National Report of Ireland, op cit*, § 424 and 425.

¹⁷⁰ Paul Partnership, *Education Costs and Welfare Provision for Low Income Families* (Limerick: Paul Partnership, 1991).

¹⁷¹ *First National Report of Ireland, op cit*, § 494.

¹⁷² Irish National Teachers' Organisation, *Report on Remedial Education* (Dublin: INTO, 1994).

¹⁷³ Department of Education, October 1995.

¹⁷⁴ IMPACT, *Supporting Children: A Psychological Service to Schools* (Dublin: IMPACT, 1996).

teaching service for children with special needs as required. Special equipment should be made available as a matter of right to all children who require it.

Educational Information and Guidance

216. There are only 27 teacher counsellors employed at primary level. At second level, one third of schools do not have access to the services of a guidance teacher.¹⁷⁵ The Alliance recommends that the teacher counselling service be extended to all schools, most urgently at secondary level, but also at primary level.

Measures to Encourage Regular Attendance

217. In 1992-1993 the average daily attendance at schools at primary level was 93% (89% for schools designated as disadvantaged).¹⁷⁶ There are no available figures relating to attendance at schools at secondary level, nor is it known whether children make the transition from primary to secondary education. Moreover, the Department of Education has no mechanism for knowing how many children are excluded and from which schools.

218. There are few appropriate measures in place to encourage school attendance or to deal with circumstances of expulsion or non-admittance. In 1994, following the publication of the *School Attendance /Truancy Report*, a Task Force on Truancy was established within the Department of Education to make recommendations as to future action required to address the problem of truancy at first and second levels. A Bill to amend the legislation on school attendance is expected to be published in 1997.¹⁷⁷

Where children have been excluded from schools, there is a need for conflict resolution and appeals procedures to be put in place which involve both parents and young people.

219. The Alliance believes that there is a need for greater support for families experiencing difficulties to ensure that problems at home are detected and do not result in the child's expulsion. In addition, the Alliance recommends that mechanisms and supports should be put in place to ensure a consistent (but not an inflexible) approach to problems with child behaviour and discipline, which would at all times give due consideration to the rights of the child. Where children have been excluded from schools (through either refusal of admittance, suspension or expulsion) there is a

serious need for conflict resolution and appeals procedures to be put in place which involve both parents and young people. Moreover, where these problems are not resolved at school level, the Alliance recommends that such an appeals procedure should involve a full hearing at education board level, consistent with Articles 12 and 28.

220. In relation to the specific problem of attendance of children from the Travelling Community,¹⁷⁸ the Alliance endorses the recommendation of the *Report of the Task Force on the Travelling Community* that the Visiting Teacher Service should be supported and adequately resourced by the authorities to encourage Traveller parents to ensure that their children participate in the education system.¹⁷⁹ It also supports its recommendation that attention be given to developing a range of ways which would permit ongoing direct contact between teachers and Traveller parents to ensure that problems can be dealt with easily and to encourage parents to communicate with the teachers.¹⁸⁰ Furthermore, it suggested that measures be adopted to facilitate the education of Traveller children who move from one area to another, such as access to distance learning, flexibility in enrolment dates and requirements and the use of similar books in all schools so that a new school does not necessitate buying new books. Finally, the Alliance recommends that the resourcing of pre-school education for Travellers should be extended both because of the inherent value of such education and its potential role in encouraging attendance at primary level.¹⁸¹

Aims of Education (Article 29)

221. Up to 12% of those leaving school do so without a formal qualification or with what is regarded as a poor qualification.¹⁸² In disadvantaged areas, as many as 25% of children leave primary school with literacy and numeracy difficulties.¹⁸³

222. In relation to early school-leavers and those who leave without qualifications, it is argued that the school curriculum is academically biased and unsuited to the abilities and interests of these children. The Alliance recommends that serious efforts be made to incorporate the needs of non academically-minded children into the school curriculum to ensure greater

¹⁷⁵ Department of Education, 1995.

¹⁷⁶ Department of Education, *School Attendance/Truancy Report*, (Dublin: Department of Education, 1994).

¹⁷⁷ Parliamentary Question 121, Austin Currie, TD, Minister of State at the Departments of Health, Education and Justice, 23 January 1997.

¹⁷⁸ See *The Irish Times*, 11.2.1997.

¹⁷⁹ *Report of the Task Force on the Travelling Community*, *op cit*, p 156.

¹⁸⁰ *Ibid*.

¹⁸¹ *Ibid*, p 172.

¹⁸² Conference of Major Religious Superiors, *Education and Poverty: Eliminating Disadvantage in the Primary School Years* (Dublin: CMRS Education Office, 1992).

¹⁸³ *Ibid*.

relevance to the diverse interests of pupils. In particular, it encourages the extension of Youth Reach Programmes¹⁸⁴ given their proved effectiveness.¹⁸⁵

223. The study of human rights does not form part of the primary school curriculum although it may be included in the social and environmental studies course as the school deems appropriate. The incorporation of the subject of human rights into the curriculum for the first three years of secondary level education is currently at pilot stage only. The principles and provisions of the Convention on the Rights of the Child are not taught in schools. The Alliance recommends that human rights, in particular the provisions and principles of the Convention, be included in school curricula in order to guarantee the child's rights under Articles 29 (b) and 42.

The Alliance recommends that human rights, in particular the provisions and principles of the Convention, be included in school curricula.

B. Leisure, Recreation and Cultural Activities (Article 31)

224. A great many children in Ireland lack appropriate or adequate play provision because they are in some way disadvantaged. A recent survey found that 46% of local authorities do not provide playgrounds; there is only one trained hospital play specialist in the country and there is no training for playworkers. Research is not available to show the proportion of children able to access holiday or after-school programmes, but it appears that such provision is limited. The Alliance is of the view that the child's right to play should be facilitated by the development of a national play policy which would identify strategies and cross departmental/agency methods of delivering play provision for all children.

225. Within the formal education system, the arts and physical education remain relatively neglected curricular areas compared with other disciplines such as the sciences and languages. Although art and music are provided as part of the curriculum of primary schools and are available as a subject option in many, but not all, second level schools, they are generally under-resourced and additional funding is often provided by parents.¹⁸⁶ For this reason, arts may become dependent on parents' ability to pay. As a result

the child's access to the arts is often socio-economically dependent.¹⁸⁷

226. There is a concern that the good work being carried out by the Arts Council and voluntary groups in the provision of arts programmes for children and young people will remain seriously hampered until the Department of Education addresses firstly, the fundamental need for adequate arts provision in the formal education system and secondly, the growing demand for innovative programmes and arts events especially for young people.¹⁸⁸

227. The State has failed to provide publicly funded music schools in many parts of Ireland. The absence of a school of music in the western region means that children must travel to and from the west of Ireland to lessons in Dublin and Cork - over 200 miles - sometimes twice a week. A 1985 report detailing these concerns has never been addressed by the government.¹⁸⁹

228. There is no full time theatre-in-education company in Ireland and facilities for the provision of theatre for children and young people are inadequate.¹⁹⁰

The Alliance recommends that National Lottery funds be made available to support arts and sports facilities, which would particularly benefit children.

229. The profits of the National Lottery were originally intended to fund and support sport and recreation, national culture, the arts and the health of the community. However, recent research found that as much as 63% of Lottery money is being assigned to government departments and local authorities for expenditure in relation to their statutory responsibilities.¹⁹¹ Given the need and demand for resources in this area, the Alliance recommends that National Lottery funds be assigned as originally

¹⁸⁷ Submission by M. Drury to the Children's Rights Alliance, 1996; Submission by Irish National Teachers' Organisation to the Children's Rights Alliance, 1997.

¹⁸⁸ Submission by M. Drury to the Children's Rights Alliance, 1996; C. Benson, 'Play, Culture and Becoming a Child' pp 59-68 in *The Rights of the Child: Irish Perspectives on the UN Convention* (Dublin: Council for Social Welfare, 1991).

¹⁸⁹ D Herron, *Deaf Ears? A Report on the Provision of Music Education in Irish Schools*, A Report commissioned by the Irish Committee for European Music Year (Dublin: The Arts Council, 1985).

¹⁹⁰ Submission by M. Drury to the Children's Rights Alliance, 1996.

¹⁹¹ B. Harvey, *The National Lottery: Ten Years On* (Dublin: NCIR, Policy Research Centre, 1995). See also *The Connaught Telegraph*, 27.11.1996.

¹⁸⁴ *First National Report of Ireland*, op cit, § 445.

¹⁸⁵ EU Evaluation Unit Report, *Early School Leavers and Youth Reach* (Dublin: EU Evaluation Unit, Department of Enterprise and Employment, 1996).

¹⁸⁶ Irish National Teachers' Organisation, *Poverty and Educational Disadvantage: Breaking the Cycle* (Dublin: INTO, 1994).

intended, that is, to support the arts and sport facilities, which would particularly benefit children and further the implementation of Article 31. Such funds could, for example, support the establishment of children's theatre and music schools in regional centres in Ireland.

230. The Alliance supports the recommendation of the Commission on the Status of People with Disabilities that all children with disabilities should be given the opportunity to participate in a range of arts activities as part of their general education. It considers this to be of paramount importance, particularly for those children who have difficulty in using other, accepted ways of making or expressing choices or of learning.¹⁹²

¹⁹² *A Strategy for Equality, op cit*, p 248, § 20.19.

VIII. SPECIAL PROTECTION MEASURES

A. Children in Situations of Emergency

Refugee Children (Article 22)

231. The Alliance acknowledges the support provided to Bosnian children on their arrival into the country as programme refugees. In the light of the sharp increase in the number of refugees coming into Ireland in recent months,¹⁹³ it urges the Government to adopt a similarly co-ordinated approach to the care of all refugee children, to ensure their rights under Article 22 and the Convention as a whole are guaranteed.

232. The Alliance recognises that the visiting teacher support service for refugees, although not totally comprehensive, is an attempt to deal with the issues which arise as a result of being a refugee. Furthermore, it acknowledges that Bosnian children were given intensive language instruction in a special unit before being integrated into local primary schools. As the majority of refugee children arrive in Ireland without any English, they may feel isolated in schools where they cannot communicate with adults and other children. The Alliance recommends that intensive bilingual English language training be offered to all refugee children on their arrival.

The Alliance urges the Government to take a co-ordinated approach to the care of all refugee children to ensure their rights under the Convention.

233. Efforts should be made to educate Irish children about different cultural, religious and ethnic backgrounds from which the refugees come to make their integration easier and to prevent racism. Such education should form part of the curriculum in both primary and post-primary schools and it should also be provided to the professionals, such as social workers and health care workers, who deal with refugee children. This is particularly important in the light of the recent dramatic increase in the number of refugees coming into Ireland.

¹⁹³ In the first two weeks of April 1997, the Department of Justice registered 166 asylum seekers - equivalent to the combined total recorded in the whole of 1990, 1991 and 1992. By the end of April, a total of 843 people had sought asylum in Ireland in 1997, compared to 1,179 in 1996, 424 in 1995 and 362 in 1994. The largest single group comes from Romania and the next largest comes from Zaire, followed by Somalia, Algeria and Nigeria. See *The Irish Times*, 18.4.1997.

B. Children in Conflict with the Law (Articles 37 and 40)

234. The Alliance welcomes the Children Bill, 1996 which represents the first comprehensive reform of legislation on juvenile justice in many years. The Alliance is pleased that the Bill places the successful diversion programme (the Juvenile Liaison Scheme) on a statutory footing and introduces family conferences at the diversion stage. It is concerned, however, that the Bill provides for the family conference to be held *inter alia* in a Garda (police) station.¹⁹⁴ It is of the view that this is not the most appropriate place to hold a family conference and that it is inconsistent with the aim of the family conference itself.

235. The Alliance notes that the Bill raises the age of criminal responsibility to 10 years (with the possibility of review and increase to 12 years) and places the *doli incapax* rule (rebuttable presumption that a child between the age of criminal responsibility and 14 years is incapable of committing an offence because he/she did not have the capacity to know the act was wrong) on a statutory basis. It is important also that the Bill applies to all persons under the age of 18 years. These developments are welcome, but the Alliance believes that this opportunity should also be used to raise the age of criminal responsibility to a minimum of 12 years.

236. The Alliance welcomes in principle that the Children Bill, 1996 provides for considerable involvement by parents in the treatment and assessment of the needs of their children who have come into conflict with the law. However, the Bill requires parents to attend court hearings in respect of their children and makes provision for parents (and children) to pay compensation, or for parents to enter into recognisances to exercise proper control over their children or to pay up to £250. The Alliance is seriously concerned about the thrust of these provisions which are regressive in effect, if not in intent, and are likely to cause greater stress and tension in already difficult family situations. The Alliance believes that the emphasis should be placed more on the provision of support for parents rather than on ordering them to exercise control over their children.

¹⁹⁴ s 25 Children Bill, 1996.

237. The Alliance welcomes the emphasis in the Bill on community based non-custodial measures. However, it notes the following with some concern. Provision is made for a child to attend a day centre for up to 90 days to receive appropriate training and instruction. No provision is made to ensure that such centres are compatible with the requirements of Article 3 § 3 of the Convention. Secondly, the court is entitled to assign the care of the child to a suitable person. The Alliance holds the view that provision should be made to ensure that the suitability of all such persons be assessed and determined by the relevant health board, the Gardaí (police) and the Probation and Welfare Service. Thirdly, the Alliance is concerned about the court's power to restrict a child's movement either in requiring the child to stay within his or her home or to not frequent other places. The Alliance believes that this 'curfew' element is likely to turn the family home into a scene of conflict where parents, who already have difficulty managing their children, will struggle to enforce the court's ruling.

238. The Bill abolishes reformatory and industrial schools (special schools) and replaces them with children detention schools, whose basic function is educational in nature and whose overall objective is to promote the re-integration of child offenders into society. The Bill deals with the conditions which must obtain in children detention schools in considerable detail. The Alliance strongly recommends that adequate resources (in particular, appropriately trained staff) be made available so that the schools can achieve their objective in practice.

The Alliance strongly strongly believes that the rights of the child in conflict with the law set out in Articles 3, 37, 40 of the Convention should be reflected in legislation.

239. The Alliance welcomes the Bill's acceptance of the principle that detention should be used only as a measure of last resort and notes that no one under the age of 18 can be sentenced to imprisonment.¹⁹⁵ However, the Bill provides that young persons aged 16 or 17 years may be sent to a 'place of detention',¹⁹⁶ but it fails to define what such a place of detention might be or what regime should prevail within it. In this regard, the Alliance notes that the regime which prevails in existing places of detention is not discernibly different from that in adult prisons. Following its visit to Ireland in 1993, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment found that the regime at one such institution was inappropriate for the young offenders

who were held there and recommended that 'steps be taken to improve the regime activities offered to young offenders at St Patrick's Institution'.¹⁹⁷ The Alliance strongly believes that clear and appropriate legislative standards in relation to all places of detention should be set out in the Children Bill, 1996 in order to conform with the rights of the child under Article 37.

240. The Children Bill, 1996 provides that the director of a children detention school will be obliged to accept any child ordered to be detained there by a court.¹⁹⁸ This carries the danger that if a school is already full to capacity, it will have to adopt an 'early release' policy to make room for new detainees. The Alliance is concerned that this would disrupt education and rehabilitation programmes devised for children already in detention there. It would seem that this provision is inconsistent with the objective of the children detention school as set out in the Bill, namely the provision of appropriate training programmes and facilities for children referred to them by a court.

241. The provision of a sufficient number of places in residential facilities for those young people in conflict with the law who require such a response is a key issue in the Irish juvenile justice system, and one which needs to be adequately addressed if the requirements of the Convention, in particular under Articles 3 and 37, are to be met. In particular, there is need for secure detention for female offenders under 18 years who are considered a danger to themselves or society. There is a need also for intensive treatment units to accommodate those with particular needs, such as severe emotional problems or a history of sex offending.¹⁹⁹

242. On a preventive level, the Alliance notes that factors such as truancy, educational failure, unemployment, drug abuse and homelessness have been identified consistently as significantly associated with juvenile offending.²⁰⁰ The Alliance welcomes that

¹⁹⁷ *Report to the Irish Government on the Visit to Ireland Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 26 September to 5 October 1993* (Strasbourg: Council of Europe, 1995), p 42. Although the Government carried out some improvements in response to a number of the CPT's criticisms of conditions in St Patrick's, the Government response noted the limits which apply to what can be achieved at this location in relation to regime activities for young offenders because of the Institution's physical limitations. See *Response of the Irish Government to the Report of the CPT* (Strasbourg: Council of Europe, 1995) p 74.

¹⁹⁸ s 166, Children Bill, 1996.

¹⁹⁹ Irish National Teachers' Organisation, *Youthful Offending - A Report* (Dublin: INTO, 1995).

²⁰⁰ *First Report of the Select Committee on Crime, op cit.*

¹⁹⁵ s 133 Children Bill, 1996.

¹⁹⁶ s 124 Children Bill, 1996.

£14 million has been made available to the Eastern Health Board for the establishment of a programme to tackle drug abuse. Nevertheless, it is firmly of the view that it is possible to reduce juvenile crime by tackling the sources and reasons for juvenile crime and that greater efforts should be made in this regard.

C. Children in Situations of Exploitation

Economic Exploitation (Article 32)

243. The Alliance welcomes the Protection of Young Persons (Employment) Bill 1996 which implements EU Directive 94/33/EC 22 June 1994 on child labour. The Alliance is of the view that the legislation already in place is positive,²⁰¹ but is concerned about the lack of an effective mechanism to ensure its implementation and enforcement. Currently, an individual complaint must be made to the Department of Enterprise and Employment before an investigation can be undertaken, a system which has proved to be ineffective. In addition, it is particularly difficult to implement standards on youth employment in the informal sector, on farms and in the home.²⁰²

244. Given the vulnerable position of young people in the work force, the Alliance believes that an action by an Inspector, who is charged under the legislation with monitoring its implementation, should not be dependent solely on the evidence of an employee in order to obtain a prosecution against an employer. A prosecution should also be possible on the basis of the report of the situation and the reasonable belief of the Inspector, having regard to all the circumstances.²⁰³

The Alliance recommends that a serious effort be made to devise effective means of enforcing legislation aimed at the protection of young people in employment.

245. The Alliance also recommends that a serious effort be made to devise effective means of enforcing the legislation already in place. Consultation with relevant interest groups in this area should be undertaken to secure the child's rights under this provision.

Protection from Drug Abuse (Article 33)

246. A report on treating drug misuse shows that throughout the 1990s there has been a gradual increase in the proportion of teenagers among those coming for

treatment for the first time.²⁰⁴ This was particularly true for those aged between 15 and 19 years. The majority of these young people come from deprived, inner-city areas with high unemployment rates. The proportion of males far exceeds that of females, and a substantial percentage has left school at age 15 or younger. One in five students have tried illegal drugs (cannabis, marijuana and solvents as well as hard drugs) once, and 10% are regular users.

247. The majority of women with HIV are of reproductive age and many already have children. Out of 142 mothers attending a drug project in Dublin, 89 were caring for children.²⁰⁵ Because of inadequate child care arrangements these mothers have been known to postpone hospital appointments, respite care and drug treatment, either temporarily or indefinitely. 110 babies have been born with HIV.²⁰⁶

248. The Task Force Report on Drugs²⁰⁷ recommended that the Government should consider structural and organisational changes to reflect a clear strategy in responding to the drugs crisis. It is also recommended that the authorities build on the strengths of the communities most affected by the problem in tackling it and address the social and economic conditions associated with it. The establishment at the end of 1996 of the National Drugs Strategy Team, which includes representatives of the Departments of Health, Justice, the Gardaí (police) and local health boards, is a welcome step towards the development of a more co-ordinated and effective response to the drugs problem.

249. The Task Force also stressed the need for further integration of activities between agencies, particularly between the statutory and voluntary/community services. The Alliance supports this recommendation and believes that the problem of drug abuse is often shifted from one area to another, which highlights the need for greater integration in all areas.

250. A 1996 assessment of services available in the Eastern Health Board area - where the problem of drug misuse is most widespread and severe - shows the need for an extension of services to meet existing demand.²⁰⁸

²⁰⁴ K. O'Higgins and P. Duff, *Treated Drug Misuse in Ireland: First National Report-1995* (Dublin: The Health Research Board, 1997).

²⁰⁵ Ana Liffey Drug Project, *Annual Report 1994* (Dublin).

²⁰⁶ Information from the Department of Health, 1996.

²⁰⁷ *First Report of the Task Force on Measures to Reduce the Demand for Drugs* (Dublin: Department of the Taoiseach, 1996).

²⁰⁸ M. Farrell and E. Buning, 'Review of Drugs Services in the Eastern Health Board Area' in *Drugs Service Review of 1995 and Development Plans for 1996* (Dublin: Eastern Health Board, 1996).

²⁰¹ *First National Report of Ireland, op cit*, § 576-588.

²⁰² Submission by The National Youth Council of Ireland to the Children's Rights Alliance, 1996; Irish Congress of Trade Unions, *Observations on the Protection of Young Persons (Employment) Bill, 1995, 1996*.

²⁰³ Submission by The National Youth Council of Ireland to the Children's Rights Alliance, 1996.

251. The Alliance is concerned that after-care services, although vital, are not available to any great extent. It finds it unacceptable that following their treatment, people can be left on their own to cope.

252. The Alliance is of the view that the locations where the problem of drug misuse is most acute can be identified, and recommends that communities in those areas receive particular help and support.

253. The Alliance recommends that research into the adequacy of available services elsewhere in the country should be carried out without delay. Furthermore, the potential role of community groups in helping to meet the need for after-care should be explored.

Given that education regarding drug abuse is essential to protect young people from drugs, the Alliance recommends that the Substance Abuse Prevention Programme be put in place in all schools.

254. The Alliance is of the view that education for young people regarding drug abuse is essential. In particular it notes the Substance Abuse Prevention Programme which has been introduced in primary schools on a pilot basis. Following the evaluation of this project, a substance abuse prevention programme should be put in place in all schools.

Protection from Sexual Exploitation (Article 34)

255. There is evidence of an increasing number of children working as prostitutes on the streets of Dublin and the problem has also emerged in Dundalk, north of Dublin. The extent of the problem is unknown, as official statistics on prostitution do not apply the criterion of age. However, groups working with children on the streets indicate that the problem is linked to issues of poverty, homelessness and drugs. Children as young as 12 are reportedly being used as prostitutes in Dublin and other provincial towns.²⁰⁹

The Alliance recommends that the Government recognise and address in a comprehensive way the emerging problem of child prostitution.

256. The criminal law in relation to sexual offences has undergone considerable reform in Ireland during the past decade, but there are still some remarkable lacunae in the area of sexual offences against children. There is still no offence of 'child sexual abuse'. All of the standard offences, such as rape, sexual assault and incest do apply to children as well as to adults. Taken together, these outlaw most, but not all, violent and

exploitative sexual behaviour against children. For example, behaviour such as masturbation in the presence of a child or an invitation by a male to a female child to masturbate him is difficult to bring within the definition of any existing offence.

257. In its report on child sexual abuse,²¹⁰ the Law Reform Commission recommended the introduction of a general offence of 'child sexual abuse' or 'child exploitation' to cover the kind of behaviour outlined above. However, the Children Bill, 1996 contains no such provision.

258. In this regard, the Alliance welcomes s 207 of the Children Bill, 1996 which creates the offence of causing or encouraging a sexual offence upon a child. It is hoped that this provision will protect children against persons who have the custody, charge or care of them.

259. The Alliance welcomes the Sexual Offences (Jurisdiction) Act, 1996, which enables the prosecution within the State of sexual offences committed against children outside the State.

260. The Alliance recommends that the possession of child pornography be made unlawful.

D. Children Belonging to a Minority or an Indigenous Group (Article 30)

261. Article 8 of the Irish Constitution provides that the Irish language, as the national language, is the first official language of the country. The Alliance welcomes the new Irish language television channel, *Teilifís na Gaeilge*. It encourages the Government to ensure that the rights of Irish-speaking children are respected throughout the educational system, in leisure activities and in all aspects of their care and upbringing in accordance with Article 30.

262. The Alliance is of the view that it is necessary to create greater awareness among those working with children of the culture of Traveller and refugee communities in order for their rights to be respected under Article 30.

²⁰⁹ *The Irish Times*, 20.8.1996; Barnardo's, 1997; *The Big Issues*, 9.4.1997.

²¹⁰ Law Reform Commission, *Consultation Paper on Child Sexual Abuse* (Dublin: LRC, 1990).

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Ana Liffey Drug Project

The Ark

Arrupe Society

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Association of Secondary Teachers Ireland (ASTI)

Barnardo's

Before 5 Nursery & Family Centre

The Bridge Child Care Development Service

The CARI Foundation

Catholic Youth Council

Cherish

Council for Social Welfare

Cerebral Palsy Ireland

CROSSCARE

Dublin Rape Crisis Centre

Educate Together

The Family Centre

Family Resource Centre

Ferns Diocesan Youth Service

Focus Ireland

Foróige National Youth Development Organisation

Irish Association of Care Workers

Irish Association of Social Workers

Irish Congress of Trade Unions

Irish Foster Care Association

Irish National Committee of UNICEF

Irish National Organisation of the Unemployed

Irish National Teachers' Organisation (INTO)

Irish Pre-school Playgroups Association

Irish Traveller Movement

Irish Youth Foundation

La Leche League of Ireland

Mary Immaculate College of Education

Matt Talbot Community Trust

Mothers Union

National Association of Parent Support

National Association for the Mentally Handicapped of Ireland (NAMHI)

National Children's Nursery Association

National Parents Council (Primary)

National Parents Council (Post Primary)

National Youth Council of Ireland

OMEP

OPEN (Open Parent Exchange & Network)

Parents Alone, Tallaght

Parental Equality

Parentline

Pavee Point

Psychological Society of Ireland

Resident Managers Association

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UN CONVENTION ON THE RIGHTS OF THE CHILD

(selected provisions)

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services, and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number of suitability of their staff as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures, for the implementation of the rights recognised in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where

needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents . . . to provide in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention.

Article 6

1. States Parties recognise that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

Article 8

1. States Parties shall respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without lawful interference.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case as one involving abuse of neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present Article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

Article 10

1. In accordance with the obligation of States Parties under Article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents . . . to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

Article 15

1. States parties shall recognise the rights of the child to freedom of association and to freedom of peaceful assembly.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

Article 17

States Parties recognise the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents . . . have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purposes of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s) . . . or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

3. Such care could include, *inter alia*, foster placement . . . adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties which recognise and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorised only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that,

if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(c) Ensure that the child concerned by intercountry adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption . . .

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

Article 23

1. States Parties recognise that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognise the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

Article 24

1. States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

Article 25

States Parties recognise the right of a child who has been placed by the competent authorities for the purposes of care, protection, or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognise for every child the right to benefit from social security, including social insurance and shall take the necessary measures to achieve the full realisation of this right in accordance with their national law.

Article 27

1. States Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) . . . have the primary responsibility to secure, within their abilities and financial capabilities,

the conditions of living necessary for the child's development.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad.

Article 28

1. States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education . . .

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in conformity with the child's dignity and in conformity with the present Convention.

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms . . .

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living . . . and for civilisations different from his or her own.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

Article 32

1. States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Article 33

States Parties shall take all measures . . . to protect children from the illicit use of narcotic drugs . . . and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.

Article 35

States Parties shall take all . . . measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation.

Article 37

States parties shall ensure that

- (a) No child is subjected to torture or other cruel, inhuman or degrading treatment or punishment.
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so, and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and appropriate assistance.

Article 38

1. States Parties undertake to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and

fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law.

(ii) To be informed promptly and directly of the charges against him or her and if appropriate, through his or her parents or legal guardian, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance. . .

(iv) Not to be compelled to give testimony or to confess guilt. . .

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of or recognised as having infringed the penal law, and in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.