

Barnardos'  
Training &  
Resource  
Service



Information Pack  
**Children's Rights**

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## Introduction

Children's rights have advanced incredibly in the past century. We have gone from a time where children had virtually no rights to a time where international treaties and conventions are being ratified worldwide in order to ensure that each child is guaranteed his or her rights. Despite these advancements, there is still a long way to go. For example, while most children in Ireland are able to enjoy the full spectrum of their rights, there are still many who live in poverty, abuse, and exclusion. The UN Convention on the Rights of the Child marked a huge step ahead in the rights of Children all over the world. While Ireland ratified this treaty without hesitation--and has responded to the treaty's demands through the National Children's Strategy-- the treaty will not be successful in Ireland until all children are able to enjoy their childhood the fullest extent possible, free of poverty, abuse, and discrimination. This information pack aims to describe what has been accomplished for children's rights and what needs to happen in the future.

### Twentieth Century Landmarks in the Development of International Children's Rights

<b>1923</b>	The Save the Children International Union draws up and approves the Declaration on the Rights of the Child (also known as the Declaration of Geneva), a five-point statement of basic child welfare and protection principles.
<b>1924</b>	The Fifth Assembly of the League of Nations in Geneva endorses the Declaration of Geneva, inciting members to be guided by its principles.
<b>1948</b>	The newly formed United Nations approves a slightly expanded text of the Declaration.
<b>1959</b>	A new ten-point Declaration on the Rights of the Child is promulgated by the UN General Assembly on 20 November.
<b>1978</b>	The Government of Poland tables the first draft text of the Convention on the Rights of the Child.
<b>1979</b>	During the International Year of the Child, the UN Commission on Human Rights considers the Polish proposal and sets up a Working Group to review and produce a final draft.
<b>1989</b>	The Working Group submits the final draft text to the Commission on Human Rights, and on 20 November, thirty years to the day after the approval of the 1959 Declaration, the UN General Assembly adopts the Convention on the Rights of the Child.
<b>1990</b>	The Convention enters into force on 2 September.

From: 'A country is judged on how it treats its children: An information pack on the importance of the UN Convention on the Rights of the Child.' The Children's Rights Alliance, produced by Public Communications Centre.

## The United Nations Convention on the Rights of the Child

The UN Convention on the Rights of the Child is a comprehensive, internationally binding agreement on the rights of children which was adopted by the United Nations General Assembly in 1989. Although the Universal Declaration of Human Rights had already guaranteed the rights of children, the Convention applied these principles specifically to children, independent of the State or adults, for the first time. The Convention incorporates children's civil and political rights, their social, economic, and cultural rights, and their rights to protection. The convention defines a child as a person under the age of eighteen years.

To date, 191 countries who signed the Convention, all except the United States and Somalia, have ratified the convention. When countries ratify an international convention such as the Convention on the Rights of the Child, they enter a binding agreement to meet the provisions and obligations set out in that convention. Ireland signed the Convention on the Rights of the Child on 30 September 1990 and ratified it, without reservation, on 21 September 1992.

### Summary of the Convention of the Rights of the Child

#### The Preamble

- recalls the basic principles of the United Nations and specific provisions to certain relevant human rights treaties and proclamations.
- Reaffirms the fact that children, because of their vulnerability, need special care and protection.
- Places special emphasis on the primary caring and protective responsibility of the family, the need for legal and other protection of the child before and after birth, the importance of respect for the cultural values of the child's community, and the vital role of international cooperation in achieving the realisation of children's rights.

<b>Article 1:</b> Definition of a Child	Children are defined as all persons under eighteen years of age.
<b>Article 2:</b> Non Discrimination	All rights of the Convention apply to <i>all</i> children without exception. The State has an obligation to protect children from discrimination.
<b>Article 3:</b> Best Interests of the Child	All actions concerning the child should take full account of his or her best interests. The State is to provide adequate care when parents or others with responsibility fail to do so.
<b>Article 4:</b> Implementation of Rights	The State has an obligation to translate the rights of the Convention into reality.
<b>Article 5:</b> Parental guidance and the child's evolving capacities	The State has a duty to respect the rights and responsibilities of parents and the wider family to provide guidance appropriate to the child's evolving capacities.
<b>Article 6:</b> Survival and	The child has an inherent right to life, and the State has an obligation to

development	ensure to the maximum extent possible the survival and development of the child.
<b>Article 7: Name and Nationality</b>	The child has the right to have a name from birth and to be granted a nationality.
<b>Article 8: Preservation of identity</b>	The state has an obligation to protect and, if necessary, re-establish the basic aspects of the child's identity (name, nationality and family relations).
<b>Article 9: Separation from parents</b>	The child has the right to live with his or her parents unless it is deemed incompatible with his or her best interests; the child has the right to maintain contact with both parents if separated from one or both.
<b>Article 10: Family reunification</b>	The State has an obligation to foster and enable family reunification where children and parents live in separate countries; the child whose parents live in a different state has the right to maintain personal relations and direct contact with both parents.
<b>Article 11: Illicit transfer and non-return</b>	The State has an obligation to try to prevent and remedy the illicit transfer and non-return of children abroad by parent or third-party.
<b>Article 12: The child's opinion</b>	The child has the right to express an opinion, and to have that opinion taken into account, in any matter or procedure affecting the child, in accordance with his or her age and maturity.
<b>Article 13: Freedom of expression</b>	The child has the right to obtain and make known information, and to express his or her own views, unless this would violate the rights of others.
<b>Article 14: Freedom of thought, conscience and religion</b>	The child has the right to freedom of thought, conscience and religion, subject to appropriate parental guidance and national law.
<b>Article 15: Freedom of association</b>	The child has the right to meet with others and to join or set up associations, unless the fact of doing so would violate the rights of others.
<b>Article 16: Protection of privacy</b>	The child has the right to protection from interference with privacy, family, home and correspondence, and from libel or slander.
<b>Article 17: Access to appropriate information</b>	The State has an obligation to ensure that the child has access to information and material from a diversity of media sources and to take measures to protect children from harmful materials.
<b>Article 18: Parental responsibilities</b>	The State has an obligation to recognise and promote the principle that both parents have common responsibilities for the upbringing and development of the child; the State shall support parents in this task through the provision of appropriate assistance.
<b>Article 19: Protection from abuse and neglect</b>	The State has an obligation to protect children from all forms of maltreatment perpetrated by parents or others responsible for their care, and to undertake preventative and treatment programmes in this regard.
<b>Article 20: Protection of children without families</b>	The State has an obligation to provide special protection for children deprived of their family environment and to ensure that appropriate alternative family care or institutional placement is made available to them, taking into account the child's cultural background.
<b>Article 21: Adoption</b>	In countries where adoption is recognised and/or allowed, it shall only be carried out in the best interests of the child, with all necessary safeguards for the child and under the authorisation of competent authorities.
<b>Article 22: Refugee Children</b>	Special protection is to be granted to children who are refugees or are seeking refugee status, and the State has an obligation to cooperate with competent organisations providing such protection and assistance.
<b>Article 23: Children with Disability</b>	Children with physical or learning disabilities have the right to special care, education, and training designed to help them to achieve the greatest possible self-reliance and to lead a full and active life in society.
<b>Article 24: Health and health services</b>	The child has the right to the enjoyment of the highest attainable standard of health possible and to have access to health and medical services. States shall place special emphasis on primary and preventative health care, public health education and the diminution of infant mortality.
<b>Article 25: Periodic review of</b>	The child who has been placed by the State for reasons of care, protection

placement	or treatment has the right to have all aspects of that placement evaluated regularly.
<b>Article 26: Social security</b>	The child has the right to benefit from social security.
<b>Article 27: Standard of living</b>	The child has the right to an adequate standard of living; parents have the primary responsibility to provide this, and the State has a duty to assist parents, where necessary.
<b>Article 28: Education</b>	The child has the right to education; the State has a duty to make primary education compulsory and free to all and to take measure to develop different forms of secondary education and to make this accessible to all children. School discipline should be administered in a manner consistent with the child's human dignity.
<b>Article 29: Aims of education</b>	Education should be directed at developing the child's personality and talents, preparing the child for active life as an adult, fostering respect for basic human rights; developing respect for the child's own cultural and national values and those of others; and, developing respect for the natural environment.
<b>Article 30: Children of minorities or indigenous peoples</b>	Children of minority communities and indigenous peoples have the right to enjoy their own culture; to practice their own religion and to use their own language.
<b>Article 31: leisure, recreation and cultural activities</b>	The child has the right to rest and to engage in leisure play and recreational activities and participate in cultural and artistic activities.
<b>Article 32: Child labour</b>	The State has an obligation to protect children from engaging in work that constitutes a threat to their health, education or development; to set minimum ages for employment; and to regulate conditions for employment.
<b>Article 33: Drug Abuse</b>	The child has a right to protection from the illicit use of narcotic and psychotropic drugs and from being involved in their production or distribution.
<b>Article 34: Sexual exploitation</b>	The child has the right to protection from all forms of sexual exploitation and sexual abuse, including prostitution and involvement in pornography.
<b>Article 35: Sale, trafficking and abduction</b>	The State has an obligation to make every effort to prevent any form of abduction of children or sale of or traffic in children.
<b>Article 36: Other forms of exploitation</b>	The child has the right to protection from all other forms of exploitation.
<b>Article 37: Torture and deprivation of liberty</b>	The State has an obligation to ensure that no child is subject to torturous, cruel, inhumane, or degrading treatment or punishment, capital punishment, life imprisonment, and unlawful arrest or deprivation of liberty.
<b>Article 38: Armed conflicts</b>	The State has an obligation to respect, and to ensure respect for, humanitarian law as it applies to children in situations of armed conflict. States must ensure that no child under the age of fifteen can take direct part in hostilities. States must take all feasible measures to ensure protection and care of children who are affected by armed conflict.
<b>Article 39: Rehabilitative care</b>	The State has an obligation to take all appropriate measures to promote the physical and psychological recovery and social reintegration of children who have been victims of any form of neglect, exploitation or abuse, torture or degrading treatment or of armed conflict.
<b>Article 40: Administration of juvenile justice</b>	Children alleged as, accused of, or recognised as having committed an offence have the right to respect for their human rights and in particular to benefit from all aspects of the due process of law, including legal or other assistance in preparing and presenting their defence.
<b>Article 41: Respect for existing standards</b>	If standards set in the national law of a country which has ratified the Convention, or in other applicable international instruments, are higher than those in the Convention on the Rights of the Child, it is the higher standard that will apply.

<b>Article 42</b>	The State has an obligation to make the rights contained in the Convention widely known to adults and children alike.
<b>Article 43 &amp; Article 44</b>	States which ratify the Convention must submit a report on implementation two years after ratification and every five years thereafter. This report is submitted to the UN Committee on the Rights of the Child which consists of ten child rights experts elected by States Parties for the purposes of examining progress made by States Parties in implementing the Convention. State Parties are required to make their reports widely available to the general public in their own country.
<b>Articles 45-54</b>	Define conditions for fostering and implementing the convention.

### Why do we need the Convention in Ireland?

There have been many improvements in meeting children's needs in Ireland over the past few years. The majority of Irish children's rights and needs are respected. Yet for thousands of other children living in Ireland, **the harsh reality is a life of struggle against poverty, exclusion, and danger**. More needs to be done if Ireland is to comply with the minimum standards set out in the Convention and so guarantee all children in Ireland their basic human rights. So why do we need the Convention in Ireland?

For example:

- Ireland has the highest proportion of children within all the EU, representing 29% of the Irish population
- Confirmed cases of child abuse increased by 298% from 1987 to 1995. (Though it is difficult to know whether this statistic reflects an increased incidence of abuse or an increased incidence of reporting, resources to tackle this problem remain inadequate.)
- 26% of Irish people who live in poverty are children.
- There are substantial waiting lists in the public hospital system. At the end of 1996 there were as many as 1,242 children waiting to have in-patient procedures carried out at two of the three public children's hospitals in Dublin.
- The infant mortality rate among the Traveller community is three times the national average.
- About 6,000 children leave school each year with poor qualifications. Such young people are at high risk of becoming long-term unemployed.
- In light of the increase in the number of refugees coming into Ireland, a co-ordinated approach to the care of all refugee children is required to ensure their rights are guaranteed.

- Throughout the 1990's there was an gradual increase in the proportion of teenagers among those coming for treatment of drug abuse for the first time. This is particularly true of those aged between fifteen and nineteen years. The majority of these young people come from deprived, inner-city areas with high unemployment rates.
- There is evidence of an increasing number of juveniles working as prostitutes on the streets of Dublin and the problem has also emerged in other urban centres.
- There is no effective mechanism to allow for personal consultation with children and young people thus granting them an avenue of communication and complaint in schools, in alternative care, and in health services.

The Convention on the Rights of the Child has a built in implementation mechanism and monitors State parties implementation process by requiring all States to submit a national report two years after ratification and every two years from then on. Also, the UN Committee encourages non-governmental organizations (NGO's) concerned with child welfare and child rights to submit statements on the state of children in their respective countries. Once submissions are received, a **UN team of 10 children's rights experts** from around the world evaluate and examine the submissions. Once evaluated, the committee holds a *plenary hearing* with the respective member states. After the plenary hearing, the UN committee issues 'concluding observations' to the State party, which is a list of improvements that should be met. Ireland received its concluding observations on 23 January 1998 which included the following:

The team of experts

- Strongly encouraged Ireland to reinforce the status of the child as a full subject of rights.
- Advised Ireland to take steps to ensure convention becomes part of domestic law.
- Encouraged Ireland to ratify the International Convention on All Forms of Racial Discrimination, the Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment of Punishment, and the Hague Convention on the Protection of Children.
- Stated that Ireland should take immediate steps to tackle the problem of child poverty and make all possible efforts to ensure that all families have adequate resources and facilities.
- Suggested Ireland adopts a National Strategy for Children.
- Suggested establishing an Ombudsperson for children's rights.
- Encouraged an increase in co-ordination between different government bodies.
- Advised that adequate data on children's issues be collected.

- Encouraged Ireland to continue and strengthen its efforts to develop a closer relationship with NGO's.
- Recommended an increase in the educational campaigns for both adults *and* children.
- Encouraged the Irish government to make more efforts to ensure that children from vulnerable and disadvantaged groups receive support.
- Suggested that Ireland promotes children's participation, especially through dialogue in the family and at school.
- Recommended that Ireland establish procedures for the inclusion of the name of the father being placed in the birth certificates in children born to unmarried parents.
- Recommended that Ireland implement the World Health Organisation (WHO) Assembly resolution on infant feeding.
- Encouraged programs that facilitate the participation of children with disabilities in community.
- Strongly suggested that Ireland take all appropriate measures to prohibit and eliminate the use of corporal punishment within the family.
- Reminded Ireland that Article 44, paragraph 6 of the convention states that both the Convention and the Concluding Observations shall be widely distributed in order to generate debate and awareness.

From: 'A country is judged on how it treats its children: An information pack on the importance of the UN Convention on the Rights of the Child.' The Children's Rights Alliance, produced by Public Communications Centre.

## What does the Irish Constitution do to Ensure the Rights of Children?

The Irish Constitution grants all citizens, including children, certain fundamental rights:

- The right to be held equal before the law (Article 40(1.))
- The right to have their personal rights as citizens respected, defended and vindicated by the State (Article 40(3)I)
- The right to have their life, person, and good name protected and vindicated in the case of unjust attack (Article 40(3)2))
- The right not to be deprived of their personal liberty save in accordance with the law (Article 40(4)1))
- The right not to have their dwelling violated or forcibly entered other than in accordance with the law (Article 40(5))
- The right to freely express their convictions and opinions (Article 40(6)I.i)
- The right to assemble peaceably and without arms (Article 40(6)I.i)
- The right to form associations and unions (Article 40(6)I.iii)

Nevertheless, the Irish constitution does grant special recognition to the family, stating that the family is the 'natural primary and fundamental unit group of society, and as a moral institution possessing inalienable and imprescriptibly rights, antecedent and superior to all positive law' guaranteeing that the State will 'protect the family in its constitution and authority.' However, it is important to note that Article 42(I) states that this is a *duty* towards children as opposed to *ownership* of children. The **rights of children in their own right** are only distinguished in article 42(5), stating that 'in exceptional cases where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.' Therefore, it may be necessary for a constitutional referendum in order to ascertain that the provisions of the UN Convention on the Rights of the Child are met.

Reference: *Citizen Child: A Handbook of Children's Rights and Entitlements and Adult Responsibilities for Parents and Those Who Work with Children*. ISPC: Children's Rights Information Bureau. United Nations Convention of the Rights of the Child

## The National Children's Strategy

The National Children's Strategy was developed as a means to implement many of the articles in the UN Convention on the Rights of the Child. The Strategy was created after the Government established an inter-departmental group which included senior officials from eight key government departments and a legal advisor from the Attorney General's office to oversee the development of a strategy. On top of this, a cross-departmental team and international advisers contributed in the formation of the strategy. The most innovative part of the National Children's Strategy is that it involved children and young people in the development of the Strategy, talking to over **2,500 youth under 18** within the 12 month process of creating the Strategy.

Launched on 13 November 2000, the National Children's Strategy established a new framework designed to better integrate the rights of children into society. The National Children's Strategy aspires for **'an Ireland in which children are respected as young citizens with a valued contribution to make and a voice of their own; where all children are cherished and supported by family and the wider society; where they enjoy a fulfilling childhood and realise their potential.'** In order to accomplish this mission, the National Children's Strategy is underpinned by six core principles designed to guide actions taken under the Strategy. The Strategy is:

- Child centred
- Family Oriented
- Equitable
- Inclusive
- Action Oriented
- Integrated

The Strategy establishes a **'whole child perspective,'** which aims to provide a more complete understanding of children's lives. It recognises that children have the capacity to shape their own lives while also being effected by the world around them. The 'whole child perspective' identifies nine different dimensions on the lives of children, including family relationships, self care, physical and mental well-being, emotional and behavioural well-being, social and peer relationships, social presentation, intellectual capacity, spiritual and moral well-being, and identity.

The meat of the Strategy lies in the creation of three national goals, as well as objectives and measures in order to accomplish these goals.

**First National Goal:** 'Children will have a voice in matters which affect them and their views will be given due weight in accordance with their age and maturity.'

### Objectives

- To put in place new mechanisms in the public sector which achieve participation by children in matters that affect them.
- To promote and support the development of a similar approach in the voluntary and private sectors.
- To ensure that children are made aware of their rights and responsibilities.
- To support children and organizations to make the most of the new opportunity to be provided.
- To target additional resources and supports to enable marginalized children to participate equally.
- To support research into and evaluation of new mechanisms to give children a voice.

### Measures

- A **Dáil na nÓg**, or a National Children's Parliament, to be established to provide a national forum where children can raise and debate issues of concern to them. Representation to be genuinely inclusive.
- An Office of **Ombudsman for Children** will be established by legislation as an independent office. The Ombudsperson would function by promoting the welfare and rights of children, investigating complaints from children on issues which affect them, consulting with children on issues of importance to them, advising Government on issues of importance to children, and promoting awareness of the UN Convention on the Rights of the Child.
- Children's views should be represented in existing **National and Local Fora** especially in relevant services such as education and health.

**Second National Goal:** 'Children's lives will be better understood; their lives will benefit from evaluation, research and information on their needs, rights and the effectiveness of services.'

### Objectives:

- To build up a more coherent understanding of children's development and needs among those working with children.
- To develop an evidence-based approach to decision making at all levels down to the point of service delivery.
- To improve the commissioning, production and dissemination of research and information.

- To improve evaluation and monitoring of children's services.

Measures:

- A **national longitudinal study** of children will be established. This study will aim to identify adverse effects which lead to social disadvantage and exclusion, educational difficulties, ill health and deprivation. Before this will be done, a feasibility study will take place which will recommend the best approach for the national longitudinal study.
- A programme of research, the **Children's Research Programme**, will be developed and funded as a special initiative.
- **Better information systems** will be devised in response to the current data on children's issues which is recognised to be of 'poor quality.'
- A set of **child well-being indicators** will be established as a basis for the production of a bi-annual report to be known as the State of the Nation's Children.
- A **National Children's Research Dissemination Unit** will be funded to gather and distribute research on children in Ireland.

**Third National Goal:** 'Children will receive quality supports and services to promote all aspects of their development.'

Objectives

- All children have a basic range of needs:
  - Children's early educational and developmental needs will be met through quality childcare services and family-friendly employment measures.
  - Children will benefit from a range of educational opportunities and experiences which reflect the diversity of need.
  - Children will be supported to enjoy the optimum physical, mental, and emotional well-being.
  - Children will have access to play, sport, recreation and cultural activities to enrich their experience of childhood.
  - Children will have opportunities to explore information and communication technologies in ways which are safe and developmentally supportive.
  - Children will be safeguarded to enjoy their childhood free from all forms of abuse and exploitation.
- Some children have additional needs:

- Children will be provided with the financial supports necessary to eliminate child poverty.
- Children will have access to accommodation appropriate to their needs.
- Children with behavioural problems coming before the courts or in trouble with the law will be supported in the least restrictive environment while having their needs addressed.
- Children with a disability will be entitled to the services they need to achieve their full potential.
- Children will be educated and supported to value social and cultural diversity so that all children, including Travellers and other marginalized groups, achieve their full potential.
- All children need the support of family and community.
  - Children will have the opportunity to experience the qualities of family life.
  - Children will benefit from and contribute to vibrant local communities.
  - Children will benefit from a built and natural environment which supports their physical and emotional well-being.

The strategy states that new structures will be created in order to deliver this plan. For example, the strategy states that the Taoiseach will chair a Cabinet Committee for Children and that a Minister for Children will be appointed. Also, a National Children's Advisory Council will include children, members of children's organisations, researchers and social partners. £2 million was the initial investment to support the establishment of new structures and begin the necessary research proposals.

References:

*The National Children's Strategy*. Dublin, Published by the Stationery Office, Government Publications.  
 Speech by Mary Hanafin, TD, at launch of National Children's Strategy. 13 November 2000.  
 Speech by An Taoiseach, Mr. Bertie Ahern, T.D., at Dáil na n'Óg, Mansion House, 5 September 2001.  
*A better future for children: eliminating poverty, promoting equality*, Submission on the National Children's Strategy, February 2000. Combat Poverty Agency.

## Websites, Contact Details and Resources for further information

### **Barnardos' Training and Resource Service:**

Christchurch Square, Dublin 8

Tel: 01 4549699

Fax: 01 4530300

Email: [resources@barnardos.ie](mailto:resources@barnardos.ie)

<http://www.barnardos.ie>

*The Barnardos' Training and Resource Service has numerous resources on children's rights including the full text of both the UN Convention on the Rights of a Child and the National Children's Strategy.*

### **The Children's Rights Alliance**

13 Harcourt Street

Dublin 2

Tel: 01 405 4823 / 24/ 25

Fax: 01 405 4826

Email: [info@cra.iol.ie](mailto:info@cra.iol.ie)

*The Children's Rights Alliance is an umbrella body composed of a wide range of non-governmental organizations and individuals concerned with the rights and the welfare of children. This organisation was set up in 1993 in response to Ireland's ratification of the UN Convention on the Rights of the Child.*

<http://www.hrweb.org/legal/child/html>

*This website contains a full version of the UN Convention on the Rights of a Child.*

### **Government Publications Sales Office**

Sun Alliance House

Molesworth Street, Dublin 2

*The full text of the National Children's Strategy can be purchased here.*

### **Focus on Children**

13 Gardiner Place, Dublin 1

Tel: 01 878 8708

Fax: 01 878 8734

*Aims to advance the rights and promote the welfare of children on the island of Ireland. A Blueprint for Action has been produced which identifies priorities for the development of provision for these children.*

### **Irish Society for the Prevention of Cruelty to Children (ISPCC)**

20 Molesworth Street, Dublin 2

Tel: 01 679 1746

Fax: 01 679 1746

*A child protection, child-centred agency which has, as its primary aim, the protection of every child's right to safe and healthy childhood.*

### **UNICEF**

Irish National Committee for UNICEF

28 Lower Ormond Quay, Dublin 1

Tel: 01 878 3000

Fax: 01 878 6655

Email: [unicefir@indigo.ie](mailto:unicefir@indigo.ie)

*Concerned with the rights and needs of children and their mothers, particularly in the developing world.*