

An Taoiseach, Mr Brian Cowen, T.D.
Department of the Taoiseach
Government Buildings
Upper Merrion Street
Dublin 2

15 August 2008

Open Letter - Children's Rights Referendum

Dear Taoiseach

As Chief Executive of the Children's Rights Alliance, I am duty bound to write to you following media reports that the Minister for Children and Youth Affairs, Barry Andrews TD, and others have stated that there are 'no compelling reasons' to hold a referendum on children's rights. This is a significant departure from commitments given by Government. I feel obliged, at this critical juncture, to raise the concerns of the Alliance which represents over 80 non-governmental organisations that feel passionately about the rights of children.

There are many compelling reasons for a constitutional amendment. Constitutional change is necessary — and the only possible route — to provide express rights in the Constitution which recognise children as individual rights-holders, to ensure all children are treated equally within the Constitution and to ensure that the judiciary and legislature base their decisions in relation to children on the 'best interests of the child' principle.

Over the past ten years, we have had a series of commitments from the Government that it will place children's rights at the centre of the Constitution:

- The Programme for Government in 1998, *Action Programme for the Millennium*, set as a key priority 'a constitutional amendment to underpin the individual rights of children'.
- In November 2006, the former Taoiseach, Bertie Ahern TD, announced the Government's intention to hold a referendum to amend the Constitution so as 'to put the rights of children in a central place in our Constitution. In that way, the Irish people can show the value we attach, in the words of the 1916 proclamation, to cherishing all the children of the nation equally'.
- The 2007 *Programme for Government* states that 'the fundamental law of our land should fully reflect our commitment to value and protect childhood' and calls for 'a new dedicated Article on Children'.
- The opposition parties have also backed constitutional change, with Fine Gael asserting that the 'the issue of children's rights' ought to be 'dealt with' in order to 'take account of changes in society and children's rights' and both Labour and Sinn Fein expressing the need for our laws to conform with the UN Convention on the Rights of the Child.

In your inaugural speech on 7 May 2008, you stated that: 'As a father, I feel an obligation to make Ireland a better environment for my children. As Taoiseach I must provide leadership so we deliver on this for all of our children and future generations.' We now need you to show leadership and to keep the issue of children's rights firmly on the agenda.

While we welcome and congratulate the Government for exploring all options, including legislative proposals on child protection issues, constitutional change to strengthen children's rights is non-negotiable. Reform would also provide general recognition of the value we place on our children in Ireland.

The UN Convention on the Rights of the Child gives clear directions and limits on realising the specific rights of children. Article 3, the best interests of the child principle, is the sum total of the norms in the Convention and without this in our Constitution we cannot fully value children in our judicial decisions, in our laws and in society as a whole.

Thomas Hammarberg, Council of Europe Commissioner for Human Rights, has recently expounded on the principle that it is in the best interests of the child to: receive education (Art. 28); have family relations (Art. 8); know and be cared for by his or her parents (Art. 7); be heard in matters concerning him or her (Art. 12); and to be respected and seen as an individual person (Art. 16). In the same way, the Convention states what is not in the best interests of the child: for instance, to be exposed to any form of violence (Art. 19); to be wrongly separated from his or her parents (Art. 9); to be subjected to any traditional practices prejudicial to the child's health (Art. 24); to perform any work that is hazardous or harmful (Art. 32), or to be otherwise exploited or abused (Arts. 33-36).

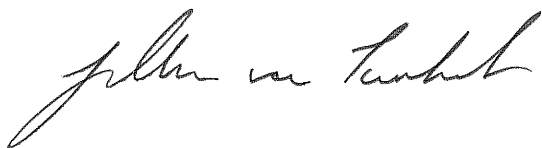
With ever-increasing globalism, we must also seize this opportunity to become an exemplar to other countries. This will signal to the UN Committee on the Rights of the Child — which called for constitutional reform in 1998 and again in 2006 — as clear evidence that the Irish State values its children.

Childhood does not stand still while adults argue for over ten years on the merits of changing the Constitution. The Alliance is fully aware that, following the defeat of the Lisbon Treaty referendum, another referendum holds little attraction for the Government, but to put this factor above the rights and needs of 1,036,034 children in Ireland is not acceptable.

The principles and provisions of the Convention must be made real in Ireland. We have heard the rhetoric: now it is time for action.

We would respectfully request an urgent meeting with you to discuss this important matter.

Yours sincerely



Jillian van Turnhout
Chief Executive

cc Barry Andrews T.D., Minister for Children and Youth Affairs
Mary O'Rourke T.D., Chairwoman, Joint Committee on the Constitutional Amendment on Children
Dermot McCarthy, Secretary General, Department of An Taoiseach