



**Approaches to Child Rights
Advocacy:
Internationalisation 2015**

ADVANCING CHILDREN'S RIGHTS: CAPTURING THE LEARNING OF THE
ATLANTIC PHILANTHROPIES GRANTEES IN IRELAND

CHILD LAW CLINIC, SCHOOL OF LAW, UNIVERSITY COLLEGE CORK
AND QUEENS UNIVERSITY BELFAST



1. INTRODUCTION

Non-governmental organisations (NGOs) play a central role in persuading Governments to take the steps necessary to implement international children's rights standards. In Ireland, as elsewhere, the advocacy of such organisations has been hugely important.

Having set out the relevant sources of children's rights at an international level, this guide provides an overview of the opportunities for NGOs to pursue their strategic aims by engaging with international monitoring bodies and institutions. It is informed by the experiences of organisations who have received funding from Atlantic Philanthropies under the children's rights objective (Objective 2) of its Children and Youth Programme.

2. INTERNATIONAL SOURCES OF CHILDREN'S RIGHTS

At an international and European level, children are recognised as rights-holders by a number of both broad and specific instruments, including:

- ✦ [United Nations Convention on the Rights of the Child \(CRC\) - Working Methods for the participation of children in the reporting process of the Committee on the Rights of the Child \(CRC/C/66/2, 16th October, 2014\); General Comment No.12 \(2009\) The Right of the Child to be Heard \(CRC/C/GC/12\); and General Comment No.14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(CRC/C/GC/14\);](#)
- ✦ [International Covenant on Civil and Political Rights;](#)
- ✦ [International Covenant on Economic, Social and Cultural Rights;](#)
- ✦ [Article 24 of the Charter of Fundamental Rights of the European Union;](#)
- ✦ [United Nations Standard Minimum Rules for the Administration of Juvenile Justice \("The Beijing Rules"\);](#)
- ✦ [United Nations Guidelines for the Prevention of Juvenile Delinquency \("The Riyadh Guidelines"\);](#)
- ✦ [United Nations Rules for the Protection of Juveniles Deprived of their Liberty \("The Havana Rules"\);](#)
- ✦ [European Convention on Human Rights](#) (despite the absence of an express provision relating to children's rights, the relevance of the Convention to children and young people has been repeatedly confirmed in the jurisprudence of the European Court of Human Rights);
- ✦ [Guidelines of the Council of Europe on child-friendly justice;](#)
- ✦ [Guidelines of the Council of Europe on child-friendly health care;](#)
- ✦ [Recommendation CM/Rec \(2011\)12 of the Committee of Ministers to member states on children's rights and social services friendly to children and families;](#) and
- ✦ [Victim's Rights Directive \(Directive 2012/29/EU\).](#)

3. ENGAGING WITH INTERNATIONAL MONITORING MECHANISMS

A notable feature of the core international human rights treaties is that they create monitoring bodies, composed of committees of independent experts, mandated to examine State parties' compliance with their treaty obligations. Of particular importance in this context is the Committee on the Rights of the Child (CRC Committee) which monitors the implementation of the CRC and its Optional Protocols.

Making a Complaint to the CRC Committee

The **Third Optional Protocol to the CRC** (OP3 CRC) entered into force in April 2014 and was signed and ratified by Ireland on 24 September 2014. It is an international, quasi-judicial mechanism that allows children and their advocates to bring complaints about violations of their rights directly to the CRC Committee. Notably, a complaint under this mechanism can only be made after domestic remedies have been exhausted.

The adoption of this **Communications Procedure** aims to strengthen the enforcement and implementation of the CRC at ground level. Although decisions by the Committee are non-

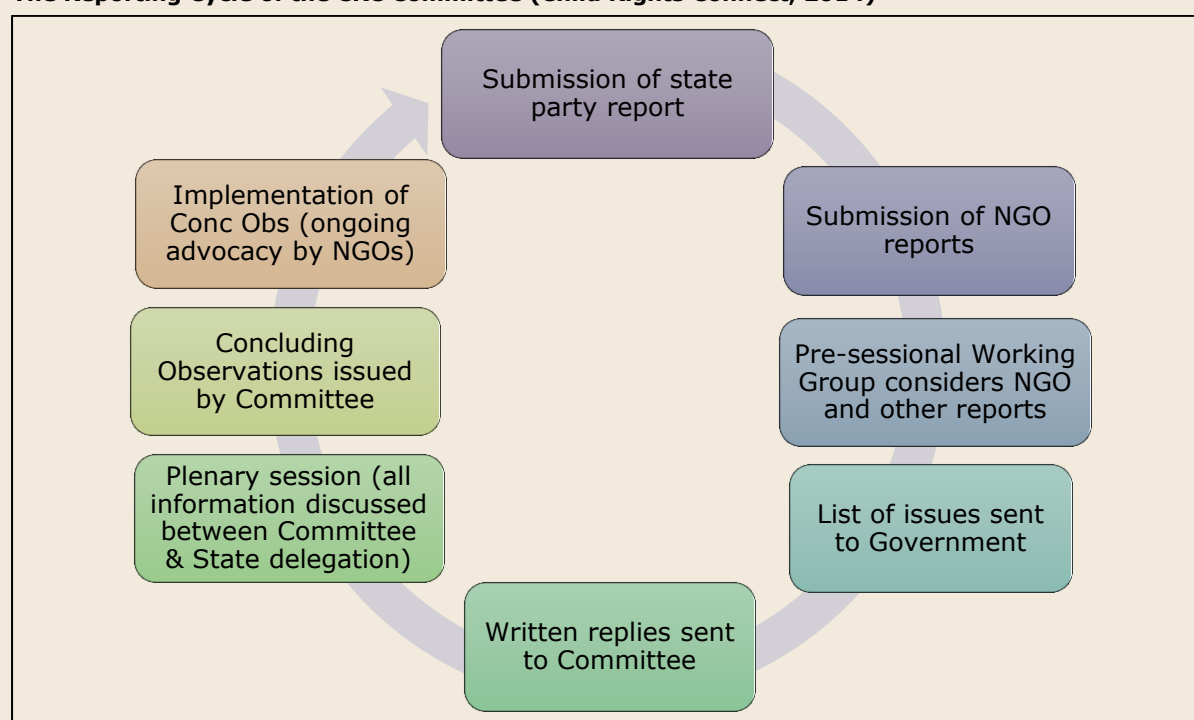
binding on States, it is hoped that the resulting jurisprudence will guide States, NGOs and others in interpreting the text of the Convention.

OP3 CRC also provides for an **Inquiry Procedure** that allows any person or organisation to submit information to the Committee alleging grave or systematic children's rights violations under the CRC by a State. If the Committee receives reliable information indicating that grave or systematic children's rights violations have occurred, it can decide to conduct an inquiry. Finally, OP3 CRC provides for the **Inter-State Communications Procedure** which allows governments to lodge complaints against other governments that have failed to live up to their children's rights obligations.

Reporting to Human Rights Treaty Bodies

In relation to each treaty that it has ratified, Ireland has committed to engaging in a review process whereby it is required to periodically report to the relevant monitoring body. Since the ratification of the CRC in 1992, the Irish Government has submitted three progress reports to the CRC Committee (two full reports and one combined report).

The Reporting Cycle of the CRC Committee (Child Rights Connect, 2014)



Case Study: The Collective Alternative Report of the Children's Rights Alliance

The Children's Rights Alliance has submitted three independent (alternative) reports, in 1998, 2006 and 2015, to the CRC Committee. As the Alliance is the representative of over one hundred organisations from the children's sector in Ireland, these reports have been the culmination of a major civil society consultation with members and stakeholders that work directly with children and families. This approach enables smaller member organisations to contribute from their own areas of expertise:

We're a tiny organisation, capacity-wise it's small, so being able to feed into things like the UN Shadow Report...[is] great, things like that, they do so well and for our members then we can feed in our little tiny bit, you know? (NG CEO 7)

The Alliance has also taken part in the oral examinations by the Committee, the results of which inform the Concluding Observations, and is planning to use the opportunity provided by the next session to "push on issues that we can't get any traction on at home" (CEO, Children's Rights Alliance).

NGOs can use the review process to generate awareness of ongoing issues and the implementation of children's rights, including by playing an active role in disseminating the concluding observations throughout the country.

In the experience of the grantee organisations, the presence of an international monitoring structure can be helpful in **putting pressure** on government to fulfil its international commitments. International legal frameworks were also felt to be particularly useful for **less than popular causes**, such as older children in the justice system.

"Concluding observations of the Committee can be an unparalleled tool for NGOs to stimulate a discussion at the national level, to exert pressure on the government to follow up on the recommendations of the Committee, and to lobby for changes in legislation and practice".

The NGO Group for the Convention on the Rights of the Child
(<http://www2.ohchr.org/english/bodies/crc/docs/Guide-NGO-E.pdf>)

Case Study: Live-Streaming the Review Process

"[The Irish Penal Reform Trust] collaborated with the ICCL and many other organisations on a shadow report for Ireland's review under the UN Convention against Torture, and as we always had, we highlighted the on-going issues around imprisonment of children and about the lack of access to an independent complaints mechanism by the Ombudsman for Children. A lot of work went into that project and a lot of direct advocacy, including sending a delegation out to Geneva. Just to focus on one particularly interesting part, which is that (in collaboration with ICCL) we discovered that you were able to place a camera into the chamber when the hearing was taking place, and so we could broadcast it back in Ireland on U-Stream. And so we live-streamed the hearing, and it was very interesting to pick up on the responses from the then Secretary General of the Department of Justice and also the then Director General of the Irish Prison Service [...] Justice for Magdalenes also gained a lot from the live-streaming, they separated out you-tube clips of the statements that were made [...] there had been a lot of work in advance on the questions that were put to the Irish State, but then it's also about how organisations reacted to the statements by the State and used it, so it was really good." (IPRT Staff)

Link to the UNCAT video: <http://www.ustream.tv/recorded/14928621>

3. INTERACTING WITH THE EU TO PROMOTE CHILDREN'S RIGHTS

European Commission Funding Programmes

Every year an annual work programme sets out the priorities for each funding programme in the Commission, describing the eligibility criteria, the budget available, the number of countries that must be involved in the project and other details. These work programmes are the blueprint for the calls for proposals that are published later in the year.

The Commission Coordinator for the Rights of the Child, Margaret Tuite, sets the funding priorities under the [Rights, Equality and Citizenship Programme 2014-2020](#) in the area of children's rights, including the prevention of violence against children.

For details of the current funding priorities, see:

- + *Daphne - Violence against children, young people, women and groups at risk:* http://ec.europa.eu/justice/grants1/results/index_en.htm#rec-daphne
- + *Rights of the child:* http://ec.europa.eu/justice/grants1/results/index_en.htm#rec-rights-child

Potential applicants are advised of the following:

- ✦ The calls are highly competitive and applicants should focus on ensuring that their project proposal matches the priorities identified in the relevant work programme;
- ✦ The Commission is looking for practical projects that are grounded in the CRC and other international standards and will lead to good outcomes for children;
- ✦ If projects will involve the participation of children, details of the relevant child protection policies in place should be provided to the Commission;
- ✦ The European dimension is important; the Commission is focused on projects that develop partnerships across Europe; and
- ✦ Projects should ensure the efficient use of resources by building on work that has already been done in the area – it is not necessary to “reinvent the wheel”.

Engaging with the European Parliament

Ireland currently has 11 elected representatives (MEPS) at the European Parliament.

It is important for civil society to lobby these representatives, in order to ensure that they are aware of the persistent issues affecting children in Ireland and advocate for the rights of children in all of their work. This presents an opportunity for children’s rights to be mainstreamed throughout the EU institutions, for example:

- ✦ The Irish MEPS sit on different Committees, including the Committee for Employment and Social Affairs; the Committee for Legal Affairs; and the Committee for Culture and Education. These Committees scrutinise and modify European laws covered by their brief before they are debated and voted on. NGOs can ask an MEP to vote a certain way on legislation and to represent their position in Committee discussions.
- ✦ MEPS table parliamentary questions to the European Commission and the issues raised are often based on the direct input from civil society.

For further details on engaging with Irish MEPS and the work of the European Parliament, see:

- <http://www.europarl.ie/en/home.html>
- http://www.euireland.ie/eu_ngo/index.php

The European Committee of Social Rights

The European Committee of Social Rights endeavors to ensure State parties are complying, both in law and in practice, with the **European Social Charter**, the 1998 Additional Protocol and the Revised European Social Charter. The monitoring process is based on the submission of national reports which are examined by the Committee. Under the 1998 Additional Protocol, complaints can now be lodged with the Committee by certain organisations.

The Committee consists of 15 independent members, elected by the Committee of Ministers for a six-year term of office, which may be renewed once.

In 2014, the Committee found Ireland to be in violation of **Article 17** of the Revised European Social Charter on the grounds that it had not prohibited all corporal punishment of children in the family and in all forms of care and that the common law defence of “reasonable chastisement” continued to exist.¹ Recalling its findings in an earlier decision in 2004,² the Committee found that there is now a wide consensus at both the European and international level among human rights bodies that the corporal punishment of children should be expressly and comprehensively prohibited in law.

¹ Association for the Protection of All Children (APPROACH) v. Ireland, Complaint No. 93/2013.

² World Organisation v. Torture (OMCT) v. Ireland, Complaint No. 18/2003.

Following publication of the decision in May 2015, the Minister for Children, Dr. James Reilly, reported that the 'reasonable chastisement' defence would be reviewed. Abolition of the defence was achieved shortly afterwards through the passing of the *Children First Act 2015*.

Research teams

Child Law Clinic, School of Law, University College Cork: Professor Ursula Kilkelly, Dr. Angela O'Connell, Dr. Sarah M. Field, Mr. Barry Fitzgerald, Ms. Naomi Kennan, Ms. Sarah C. Field.

Centre for Children's Rights, Queen's University Belfast: Professor Laura Lundy, Dr. Chelsea Marshall, Dr. Elizabeth Welty, Dr. Karen Orr.